Wake Forest JURIST

Spring 1985 Vol. 15, No. 2

Judge Emory M. Sneedon

Wake Forest Continuing Legal Education

Spring 1985 Schedule

Date	Location	Program and Publication
March 15	McKimmon Center Raleigh	Tort Litigation 1985 NC Tort Handbook, 1985
March 22	Wake Forest Law School Courtroom Winston-Salem	Tort Litigation 1985, Replay
April 11 & 12	Holiday Inn, Old Town Washington, DC	Current Employment Law Issues Current Employment Law Issues Handbook
April 12	Wake Forest Law School Courtroom Winston-Salem	NC "New" Evidence Rules NC "New" Evidence Rules Manual
April 19	Raleigh Hilton Inn Raleigh	NC "New" Evidence Rules, Replay
April 26	Grove Park Inn Asheville	Tort Litigation 1985, Replay
May 3 & 4	Hilton Inn Winston-Salem	Commercial & Business Law NC Business Practice Handbook
May 9 & 10	Terrace Garden Inn Atlanta, GA	Current Employment Law Issues
May 17 & 18	Velvet Cloak Inn Raleigh	Commercial & Business Law, Replay
May 24 & 25	Kiawah Island Inn Kiawah Island, SC	Current Employment Law Issues

The **Fifth Annual Review Seminar** is scheduled for Fall 1985 and will be conducted in Winston-Salem, Asheville, Raleigh and Charlotte.

Other WF-CLE Publications

N.C. Tort Practice Manual (1983) $55.00
N.C. Tort Practice Handbook (1985) $55.00 or $100.00 per set
N.C. Business Practice Manual (1983) $55.00
N.C. Business Practice Handbook (1985) (available May 1985) $55.00 or $100.00 per set
N.C. Contract Practice Manual (1984) $55.00
N.C. Civil Cases Manual (1984) $55.00
N.C. Trial Book — Civil: Master & Case (1983) $70.00 or $110.00 per set
N.C. Criminal Cases Manual (1984) $55.00
N.C. Trial Book — Criminal: Master & Case (1982) $70.00 or $110.00 per set
N.C. Law Office Management Handbook (1984) $55.00
N.C. Estate Planning Practice Manual (1984) $55.00
N.C. Wills and Probate Handbook (1983) $55.00 or $100.00 per set
N.C Family Law Practice Handbook (1984) $55.00
N.C. Family Law Practice Manual (1982) $55.00 or $100.00 per set
N.C. Workers' Compensation Manual (1983) $55.00
N.C. Professional Malpractice (1983) $55.00
N.C. Real Property Practice Handbook (1982) with Supplement (1983) $55.00
N.C. Real Property Practice Manual (1983) $55.00 or $100.00 per set

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STATEMENT OF PURPOSE AND POLICY

The **Wake Forest Jurist** is published twice yearly by the Wake Forest School of Law of Wake Forest University. Its main purpose is to inform the friends and alumni of the Law School about activities and events of interest at the Law School, of recent important decisions by the courts of North Carolina and other jurisdictions, and news of the achievements and activities of fellow alumni. In this way the **Jurist** seeks to provide a service and a meaningful link between the School of Law and its alumni. Also, the magazine shall provide a forum for the creative talents of students, faculty and its alumni and an opportunity for legal writing by them. Opinions expressed and positions advocated herein are those of the authors and do not represent official policy of the School of Law.

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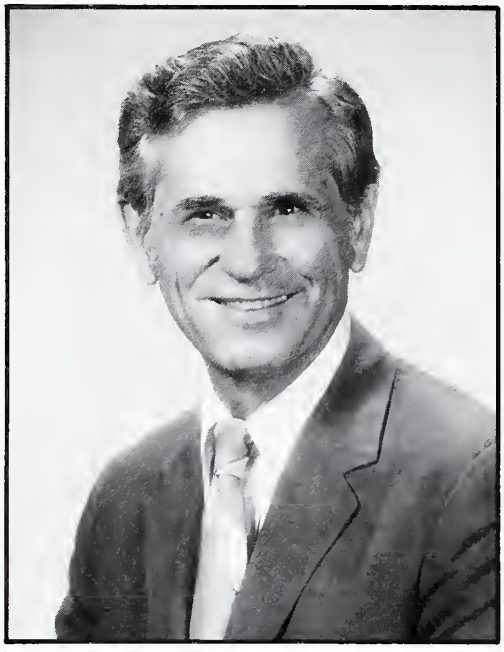
Dean's Letter

The arrival of Dr. Thomas Hearn as President of Wake Forest has opened the doors on an exciting new era for the University. Wholly committed to a unified university concept, one of Dr. Hearn's first major projects was the creation of a systematic planning process designed to assess the strengths and resources of the University and to develop the direction in which it will move and the goals to which it will aspire in the years ahead. Dr. John Anderson was appointed as Vice President for Administration and Planning with the immediate charge of shaping and implementing the planning process. The Law School was chosen as the "pilot" unit for the planning operation and worked closely with Dr. Anderson throughout the summer and fall in the development of the process and the design of the Law School plan. Although the planning process continues on a University-wide basis, the Law School plan has been completed and submitted to the University administration. The initial results have just been announced — an announcement which heralded a significant watershed in the life of the Law School and clearly defined a determination on the part of Dr. Hearn and the University administration to move the Law School, as an integral part of the developing University, into a position of leadership among the law schools of the region. We are excited about the plan and about the commitment which the University has demonstrated to the continuing development of quality legal education at Wake Forest. Although you will be hearing and reading much about this plan in the next year, we want to share some thoughts about it with you now.



At the outset it should be noted that the formulation of a long-range plan for the Law School involved consultation with every constituency of the school. Dr. Anderson, going far above and beyond the call of duty, conducted a long series of structured interviews with faculty, students, staff, and alumni. The Dean requested each faculty committee to engage in a comprehensive study of long-range law school needs and objectives. The faculty met in retreat three times to discuss and consider proposed legal education models for the future. A prominent legal educator served as consultant to the project and the Law School Board of Visitors and Lawyer Alumni Executive Committee reviewed the results of faculty meetings and administrative discussions. Our effort was far reaching. It considered and reconsidered questions of the Law School's identity and the direction of its programs. These efforts culminated in a comprehensive presentation to the University this fall. Although many recommendations still pend and will be the subject of discussion in the future, the salient features of the first stage of what has been designated the "440 Plan" have been approved and acted upon. They are:

1. A gradual reduction of the size of the student body from 500 students to 440 students over the next five years. This reduction will preserve the close community environment of the school, will promote closer interaction between professors and students, and will permit the re-introduction of instructional techniques which had to be abandoned when class sizes ballooned.
2. The Law School recognizes that it has become an institution with a regional outlook and outreach partly by choice and partly as the result of circumstances over which it has no control. It will follow the lead of the University and concentrate more of its efforts upon becoming recognized as one of the outstanding regional law schools of the country through the development of intensified recruitment efforts, placement efforts, and continuing legal education programs. In this process every effort will be made to preserve and nurture the loyalty, affection and support of an unusually committed alumni body which is largely centered in North Carolina.
3. In the next few years, the law school will design and implement an integrated business oriented curriculum specialty area. We will also expand our clinical program to include corporate and business practice experience and will continue to develop the JD-MBA program.
4. We have developed and integrated a program of academic support which is designed to accomplish the following objectives:
   (a) Recruit solid students, diverse in background and interests from a wide geographical area, primarily extending east of the Mississippi, and maintain to

the extent possible a solid North Carolina base.

(b) Beginning in the academic year 1985-86, teach first year students in small first year classes of approximately 42 students.

(c) Provide our students with a faculty which blends academic excellence and law practice experience, including distinguished faculty members coming to us from other schools to occupy endowed chairs in law.

(d) Provide a clinical education experience which concentrates on substantive trial experience and extensive criminal and civil practice, with opportunities available for corporate legal education.

(e) Institute an aggressive placement program to place our new attorneys in successful firms throughout the eastern United States engaged in general or corporate practice, in important corporate, government, and legal departments, and in new, non-traditional positions.

(f) Provide our students with extensive opportunities for orientation and training on computer-assisted legal research, computer-assisted legal instruction, and law office management systems.

(g) Expand our Continuing Education Program throughout the eastern United States, in limited, carefully selected areas and topics.

To organize and concentrate our efforts in the important outreach areas of our developing program and to spread the word about what's going on at Wake Forest we have added a new administrative position entitled Associate Dean, External Affairs, with responsibility for admissions, placement, public relations, continuing legal education, and clinical education. Professor James Taylor has been appointed to fill this position, beginning February 1st.

The university has become aware of the desperate space needs of the Law School and has also recognized that the law school physical plant requires immediate attention as well as continuing study. It has provided funds for building repair and fix-up to address some immediate needs and has formed an internal building feasibility committee to develop alternative plans for law school renovation, addition, or new construction.

As alternative plans develop, the Board of Visitors, the Alumni Organization, and the students will have an opportunity to respond to an overview of those possibilities and the possible options available to our law school community.

In conjunction with the plan the faculty has acted to revise its evaluation standards for promotion and tenure decisions. These revisions and criteria will result in a heightened level of attention devoted to the area of teaching, scholarship, and service. The criteria specifically provide that the evaluation of teaching effectiveness, scholarly productivity and professional service shall be based upon improved methods of peer review, student opinion, administrative review, and other relevant data. Law School governance procedures have also been revised to redefine areas of responsibility shared by the faculty and the administration.

The planning process has been a rewarding one for all concerned. We are grateful to all of the faculty, alumni and students who gave generously of their time and talent to design a plan for a better future at Wake Forest. We are deeply indebted to Dr. Anderson for his guidance, and his patience, and the depth of his involvement in our planning process. Most of all we are grateful to Dr. Hearn for sharing our vision of what the Wake Forest Law School can become, and for moving ahead to begin to transform that vision into reality. It is clear that the university is committed to making the Wake Forest Law School one of the best law schools in the country while preserving its traditions of fostering a climate of warmth, closeness, and supportiveness, as well as being a strong source of individual and professional responsibility. The evolution of any institution inherently involves the need to blend its past traditions with a future emphasis. In many ways the phenomenal growth of the Wake Forest Law School in the last 15 years has diluted our ability to preserve the collaborative humanistic traditions of the past. As our new program develops and matures, this effort will become easier in some ways and more difficult in others, but it will remain our top priority in the years ahead and you will be an essential ingredient in whatever success we are able to achieve. You are the embodiment of the best that Wake Forest has been, and you can be of tremendous help in making sure that we retain the best of the past as we attempt to develop the best of the future. In the weeks ahead Associate Dean Zick, Associate Dean Taylor and I will be riding the circuit to talk to as many of you as we can about the 440 Plan and what it will mean for the Law School. We hope you will join us when we get to your area to share in the excitement. It's a great day for Wake Forest University!

Crowded classroom conditions show need for new facilities or smaller classes.

Major Changes Announced For Law School

by Tom Roth

On January 23, 1985 Dean Scarlett officially announced the adoption by the law school of a new long range plan. The "440 Plan" will guide Wake's development through the end of the century. It revolves around two principal ideas. The primary goal is to raise the status of Wake from a "small state-oriented law school to an outstanding regional law center" competing on the level of Vanderbilt and Emory Law Schools. Provisions also exist to strengthen the school's traditional base in North Carolina. Secondly, the size of the student body will be reduced from 500 to 440 students over the next six years. This reduction is partly to preserve and improve student quality and job prospects as the applicant pool and job market shrink, and partly to improve and preserve the traditional *esprit de corps* of Wake Forest.

The 440 Plan is the result of a year-long planning process involving staff, faculty, students, and the Board of Visitors under the direction of Dr. John Anderson, University Vice-President for Administration and Planning. In the process, Dr. Anderson personally interviewed every member of the school's faculty and staff as well as many students. Throughout the planning the University administration has shown the greatest interest in the health and welfare of the law school and has been extremely helpful, said Scarlett. Now, for the first time, the Law School will be able to compete for university resources and will not be limited primarily to its own funds.

Both Scarlett and Associate Dean Zick have strongly emphasized the help that the university's new interest in the Law School has been and will be. They have particularly high praise for the work done by Dr. Anderson. He has been an immense help to the Law School and an "exceptional resource for the university," according to Zick. The long-range planning for the Law School has been a pilot project for

similar projects to be undertaken by all branches of the University.

The bulk of the 440 Plan is concerned with academic and administrative changes, some of which have been authorized for immediate implementation and some of which have been scheduled for the future. Badly needed expansion of the school's physical plant will be considered by a recently appointed law school committee, but nothing in the way of a permanent solution can be expected for five to eight years, notes Scarlett.

Law School Student Body To Be Reduced

One of the key changes in the school will be the reduction of the size of the student body to 440 students. The importance attached to this may be seen merely in the fact that the plan is named after it. With an expected reduction in the number of law applicants coupled with the tightening legal job market, it was felt that a reduction would be highly desirable both to insure that the quality of Wake students remains high and to insure that students will have reasonable job prospects once they graduate. (The lost income from tuition will be made up from general university funds, not tuition increases.) Demography was also a major impetus for the decision to move toward a regional focus. According to Scarlett, the majority of North Carolinians given the choice between the Wake Forest and UNC-Chapel Hill Law Schools will not attend Wake without substantial financial aid. The tenfold difference in tuition makes the decision for them. He cited figures for one recent year showing that of eighty-five North Carolinians admitted to both schools, fifty-six attended Chapel Hill, three attended Wake Forest. Those three were on full scholarships. Some students without scholarships, given the opportunity, do choose Wake over Chapel Hill, but the difference in tuition has created a strong competitive disadvantage between the two schools. If Wake is to remain a high quality institution and improve the quality of the education it offers, it was felt essential to aggressively expand its base from the state to the regional level. Its traditional North Carolina base will not be forgotten but will be strengthened to the extent possible.

Increased Financial Aid To Be Offered

Increased financial aid is an essential part of this strengthening. At present, the school provides financial aid to all who need it in the form of scholarships and loans, but such aid is inadequate. The new plan provides for twelve full scholarships in each class, one quarter of which will be in the form of low interest loans from the law school. Four "super scholarships" — tuition plus a considerable stipend — have also been planned for each class. This will help the law school to compete for the highest quality students on a regional basis. At present, however, there is no funding for any new scholarships. Increased scholarship aid for North Carolina students is called for in the plan to help Wake compete with Chapel Hill for in-state students. To attract more minority students, the plan calls for increased scholarship aid aimed specifically at minority students. The Black American Law Student Association (BALSA) is engaged in a fund drive to establish such a scholarship. The University Office of Development and Estate Planning has agreed to match all proceeds up to $5000.00. To round out the proposals for increased financial aid, increased funding for all types of work-study jobs will be sought.

First-Year Class To Have Four Sections

Turning to the proposed academic program changes, beginning next year the first year class will be divided into four sections instead of the traditional two. This will eventually mean that no One-L's will be taught in any class larger than forty. This will enable improved student-teacher interaction and will allow for greater flexibility in teaching technique. According to Associate Dean Zick, the end result will be that first year students here will be taught in classes smaller than those of any other law school in the country except Yale. No increase in the total number of professors will be required by this plan, since two sections would be taught by one professor. Under current ABA teaching load guidelines, two sections of one course are treated as one and a half courses. Because the ABA teaching guidelines allow professors to carry heavier loads than they carry here, there will be no need to increase the number of professors teaching One-L's. This is especially justified here since each professor will be teaching the same number of students as before.

Some dislocation in the availability of upper level courses is expected and a committee is examining the matter, according to Scarlett. However, because of the increased number of times each classroom will be used, some classes will have to be held outside of Carswell Hall until such time as the Law School can be provided with a larger or expanded building. Scarlett expressed the hope to the SBA that this increased visibility on campus would encourage the university community to realize that it really needs a new law school as much as a new student center.

Business Curriculum To Be Emphasized

Beginning next year the Law School's existing business specialty will be redesigned and re-emphasized. This will largely be brought about by the reorganization of the already considerable number of business courses available, but a new business — corporate counsel clinical program has already been installed as a part of this new specialty. Additionally, the Law School's highly successful legal writing, trial and appellate advocacy programs will be strengthened and improved. One proposal calls for the provision of a separate secretary for the Moot Court program. Presently our competitive moot court and trial teams have "one of the most outstanding records of any law school in the country," notes Scarlett.

The 440 Plan envisages extensive changes in the structure, supervision, and payment of the Law School faculty. The creation of three new Distinguished Professorships has

been proposed. One such chair has already been authorized and the Dean hopes that it might be filled by next fall. The distinguished professor would serve as a role model for the faculty and as a means to attract high level legal educators who would serve to strengthen the quality of the faculty and the school's image. In addition, the plan provides that the next two vacancies will be filled at the full professorial level.

Faculty salaries are to be raised to competitive levels. This will aid in the effort to attract the best possible faculty for the Law School. Salaries of presently serving professors will be raised, as funds become available, on a merit basis.

Improved procedures for faculty development and supervision are being developed. Some new procedures are already in use. Each professor now meets individually with the various Deans at the beginning of each year to set goals for professional improvement. The meeting is repeated at the end of each year to review progress toward meeting those goals. Videotape is increasingly being used to help review and improve faculty classroom performance. Videotaping of classes is already used to aid in the evaluation of professors being considered for promotion or tenure. Scarlett says that video use will be extended to all professors, even those who are tenured. Such taping is done on both a surprise and forewarned basis.

In addition, classroom visitation by the Deans and by other professors will be used to help the faculty improve. A student academic policy committee is also involved in this process; among its duties is the betterment of the student evaluation of faculty members. Finally, increased encouragement and support for faculty development and research will be made available in all possible ways. The Dean rates the quality of our faculty very high among those schools with which he is familiar. He has claimed it to be comparable on the whole in teaching ability with the Harvard of his student days, but there is always a need to improve that quality.

Changes Made in Administration

The 440 Plan also calls for changes in the administration of the Law School. The most notable is the establishment of a new associate Deanship for External Affairs. James Taylor, formerly Deputy Judge Advocate-General of the Air Force and until recently, Director of Clinical Education here, has been appointed to this post. He will have overall charge of admissions, placement, public relations, and development of an aggressive marketing plan for the Law School. He will remain as director of the clinical program and will be assisted in that post by a new clinical instructor to be hired next year. The present operation of the Admissions and Placement offices has been effective, according to Scarlett, but with the increasingly competitive atmosphere in which the school must operate as it develops a regional base, they are inadequate.

Another proposed administrative addition will be the hiring of a permanent part-time minority recruitment director who will be charged with improving the interest of minority students in Wake and possibly with counseling and aiding those who do attend Wake.

Computer Usage to Increase

The library has already seen some changes in its operation, primarily in the area of computer usage. It presently uses computers for cataloging and ordering new materials as well as providing student access to Westlaw and other educational computer usage. Its whole catalogue may be computerized as part of a university-wide effort to development of a general computerized catalogue of all books in all university libraries. This will provide not only faster and easier referral to materials in the Law Library, but also will make access to the Reynolds Library's legal and government documents collections easier. Another proposed change is that library staff salaries be brought up to a competitive level. Despite all this the library's greatest trouble is lack of space for books, and any major improvement and expansions of library collections must wait until more space becomes available.

The 440 Plan provides a considered guide and framework for the Law School development into the 21st century. It evisages the fundamental change of Wake Forest from a fine state-oriented law school to a regional law center. This change will then give to Wake Forest University a law school which is a fitting complement to a respected regional university.

Computer Use to Spread to Every Facet of Law School

by Tom Roth

Computer usage is taking on an increasingly important role in all aspects of legal work from instruction through office management. Wake has been a leader in the adoption of computers for law school usage. The 440 Plan calls for the continuation of this role. One major change beginning this year has been in the use of computers for legal instruction. Wake has obtained six new Wang professional computers with dual floppy disc drives. Four new computers have been used to replace the old IBM Westlaw terminals, and a program has been developed which allows the computer to call up Westlaw for the student, thereby making access much faster and simpler. These terminals also provide some word processing and Computer Assisted Legal Instruction (CALI) capability for the students.

The word processing capability allows a student to directly incorporate data from Westlaw into his papers or to save the material on his own disc for later use.

The CALI allows the student to use the terminals in aid of legal instruction in a variety of areas. Students who have used these programs have given them very high marks. Unfortunately the variety of available programming in this area is slim and Wake intends to develop some of its own instructional programs. One proposal, according to Sally Irvin, Computer Director, is for a teaching program in Evidence which would be hooked up to a laser disc video system. The student would see himself sitting in court before an interactive judge. Other plans call for procurement of law office management software which would be incorporated into the office practice and clinical courses here. The ultimate goal is to provide one terminal for every four students with a printer to every four terminals, said Dean Zick.

The library and the administration have long used computers in a wide variety of areas. Presently the library is part of a national computerized ordering and billing system. There are also plans in progress for the computerizing of the university's library catalogs, thus allowing a student to search all of the university's collection on a given topic at one sitting.

Recently the Law School received a gift of a Wang VS80 mini-computer. This is a middle size computer which is widely used, according to Jean Hooks, assistant to the Dean for Administration. Wang donated the computer to the university, but channeled it to the Law School at the request of Vice-President Anderson. It will considerably expand the capability of the administrative computer system which had been seriously overloaded, and may find some use in educational programming as well. Mrs. Hooks said that the school is still exploring its possibilities. Overall, there has been and will be a great deal of exploration of the possibilities of computer use in all areas of the Law School.

Is a New Law School Building Feasible?

by Mike McCall

The question as to whether a new law school building is feasible will be reviewed by a soon-to-be-formed Internal Feasibility Study Committee. The committee will be charged with studying the feasibility of either constructing a new law school building, or making alterations to or renovating the existing structure. A combination of any one of these options will also be considered. The committee, consisting of Dean Zick, Professor James Bond; Professor Miles Foy; H. S. Moore, Director of Physical Plant; Laura Ford, Associate Provost; Lu Leake, Assistant Vice President for Administration and Planning; and a yet to be named law student will seek to document the needs of the Law School in terms of a physical plant, and to generate alternative approaches for accommodating these needs. Among the first actions that the committee will take will be to retain a consultant to aid them in the identification of the options available, to visit other law schools that have recently built, altered, or renovated their buildings, and to survey the various constituencies of the law school community for their suggestions. Dean Zick said, "I, the chairperson of the committee, consider the building itself a physical manifestation of the institution's character. For that reason any new plan should capture the spirit of our school, one which has long been characterized by a certain ambience of warmth and community closeness, while also providing for the school's aesthetic and functional needs."

The committee's task will not be simple. This is due in part to the fact that law school buildings are utilized in a manner very different from that of other educational institutions. A law school education is very "experience-oriented." As a result, the structuring of space within a law school should promote the informal dialogue, both between students and students and between the faculty and students, that plays such a vital role in the training of an attorney.

This feasibility study, an offspring of the 440 plan, (see article this issue) will accordingly be influenced greatly by the changes in the law school's demographics in the future. For instance, a smaller student body and classroom sizes will necessitate that any future building be equipped with subdividable areas.

The committee's final recommendations will be presented to the University in November of this year. If approved, a second committee, a building committee, will be formed. The building committee would be established to make a detailed study of the plan presented by the feasibility committee.

In the meantime, the University has advanced funds to the Law School that will be spent upon the advice of the Student Bar Association on building maintenance. The money will be spent to improve current student living and studying conditions at the law school.

International Moot Court Law Team (L-R): Heidi Tauscher, Jane Jeffries, Scott Phillips, Virginia Hourigan, Andy Gowder.

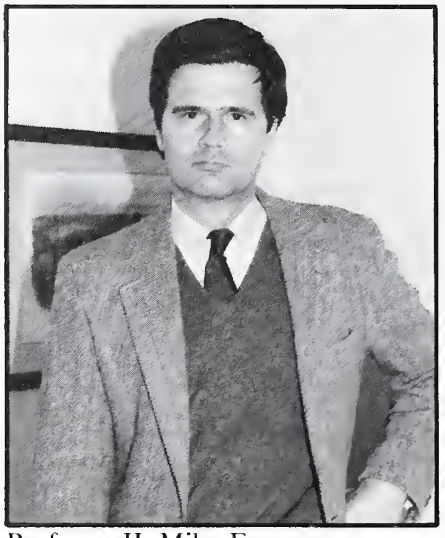
Former Justice Department Attorney Joins Faculty

By Tom Roth

This fall a new face appeared in the halls of the law school. The face belonged not to a 1L or to a visiting professor, but to a new associate professor, H. Miles Foy. Professor Foy came here from private practice in Greensboro and first became known to the students through teaching Legal Bibliography and Business Organizations. This spring he is teaching Legal Bib and Debtor-Creditor Relations.

Foy left a partnership in an established Greensboro firm for teaching because "I have always been interested in academic things, in writing and thinking about law, and in talking about it." Having been in practice for eleven years he was "ready for something else." So far he has a high opinion of Wake Forest and of teaching its students. "It has been a very positive experience."

A native of Iredell County, North Carolina, Foy attended the University of North Carolina on a Morehead Scholarship and earned a Phi Beta Kappa key prior to his graduation in 1967. This was followed by the receipt of a Woodrow Wilson Fellowship and the study of American history at Harvard University's Graduate School. He was granted the degree of Master of Arts in 1968. He attended law school at the University of Virginia, becoming Assistant Editor of its Law Review. Following receipt of his J.D. in 1972, he served a year as law clerk to Judge Griffin Bell of the old Fifth Circuit Court of Appeals. Eventually, he joined the Greensboro firm of Smith, Moore, Smith, Schell and Hunter. During the Carter Administration, he served in the Justice Department's Office of Legal Counsel, once again under his old boss, Griffin Bell, who was the Attorney General. Following the Carter Administration's demise in January of 1981, Foy returned to his firm in Greensboro, where he remained until this past fall.



Professor H. Miles Foy

Professor Foy considers his work in President Carter's Justice Department to have been the most academically challenging and exciting work he has had to date. The Office of Legal Counsel assists the Attorney General in the performance of his oldest duty, the giving of legal advice to the President and the executive agencies, as well as to Congress. Among Mr. Foy's duties were the drafting of official opinions of the Attorney General and testifying before Congress on such matters as the Panama Canal Treaty and the *Snepp* decision. In the *Snepp* case, Frank Snepp, a former CIA agent, wrote a book about his experiences in the CIA and then refused to submit it to the agency for pre-publication security clearance as per his contract. The Supreme Court upheld the contract and the other similar government employment contracts. Mr. Foy described his work as involving "exciting and creative legal reasoning." He and his colleagues were confronted with "novel and unusual" problems which could not be solved by research alone but required thought and reasoning to reach sound conclusions.

Of his former employer, Judge Bell, Foy holds the highest opinion, describing him as a fine and personable man and an excellent Attorney General, one who had a "very strong and clear conviction that the Attorney General's job was to enforce the law and not to selectively ignore it in the interest of political concerns."

In 1981, following President Reagan's election, Professor Foy returned to his Greensboro firm. His practice was primarily business-oriented, including "right much corporate litigation," as well as some arbitration. One of his last cases prior to leaving private practice was, however, a constitutional case which the Supreme Court has agreed to hear. The case concerns the defense of a man charged with libeling a candidate for the office of U.S. Attorney by sending a letter to President Reagan falsely attacking the candidate. In addition to defending the truth of the statements made in the letter, Mr. Foy's firm is arguing that the right to petition clause of the Constutition includes an absolute privilege for statements made in such communications.

Professor Foy has an active life outside of law school. He lives in the small community of Oak Ridge, between Winston-Salem and Greensboro, with his wife and two daughters. His wife Jane is a pediatrician and runs the Guilford County Ambulatory Clinic for Poor Children. His two daughters, Ann and Sarah, are five and ten years old.

In addition to participation in the usual professional activities, Professor Foy is active in Guilford County politics. This amounts to trying to keep the local school open and development in check, he claims. Foy has some musical interests, which include playing the trombone with the Greensboro Concert Band (a group of non-professional musicians who enjoy playing). Foy also plays an old-time, five-string banjo "primarily for his own amusement and the amusement of others." He used to regularly attend the annual Union Grove Fiddlers Convention before it "got out of hand." Recreational activities include an occasional game of pick-up basketball and a white water canoe trip.

Innovations Made in Clinical Program

By Julie Davis

Professor James Taylor, Jr., Associate Dean, External Affairs, directs the Clinical Program for the Law School. Clinical students are in their third year and engage in the practice of both criminal and civil law under the supervision of local attorneys. Taylor believes that this skills course is necessary for a complete legal education. Under Taylor's supervision, the Clinical Program has two new features this spring.

Taylor credits Don Tisdale, District Attorney for Forsyth County and a 1968 alumnus of Wake Forest Law School, with the first innovation. Tisdale is a strong supporter of the Clinical Program. He arranges cases for many of the students during the criminal law segment of the program. Of twenty clinical students this spring, sixteen were assigned to the District Attorney's office for their criminal law work. Under the North Carolina Student Practice Rule, law students may try misdemeanors in both District and Superior Court. For the first time this spring, Tisdale has arranged a week in February and a second week in March when all the cases heard in Superior Court will be tried by clinical students. It is an historic first for Wake Forest's Clinical Program.

The second new clinical education feature is a joint effort between Taylor and Wachovia Bank and Trust Company. Since the inception of the program, efforts have been made to place students with corporate counsel for the civil element of the course. This spring, Wachovia has designed its own program through their general counsel, Ralph Strayhorn. This is the first assignment for a clinical student within a corporation.

Taylor believes that clinical work is an integral part of the lawyer's education. His efforts, combined with those of Tisdale and Strayhorn, have made the program an even better experience this spring for the largest clinic class yet at Wake Forest.

CLE Keeps Growing

by Edward P. Norvell

The Wake Forest Continuing Legal Education Program has an exciting schedule lined up for this spring. The Fifth Annual Review has been changed and a new regional institute on current employment issues has been scheduled.

In the past, the Wake Forest CLE program has only conducted seminars geared toward the N.C. practitioner, but this year CLE is sponsoring a regional seminar addressing Current Employment Law issues which should be of interest to attorneys both in and out of state. The seminar is designed for attorneys interested in labor law and personnel administration. The two leaders of the institute, Gerald Hartman and Michael Cleveland, are both members of the Washington, D.C. law firm of Vedder, Price, Kaufman, Kammholz and Day. Gerald Hartman is also currently an associate professor of law at the Wake Forest School of Law with a specialization in equal employment law and class action litigation. Professor Hartman received his Bachelors and Masters degrees from Columbia University, and his Juris Doctor degree from George Washington University Law School. Mr. Cleveland, a well known lecturer and author of labor law texts, received his Bachelors degree from Loyola University and his Juris Doctor degree from the University of Chicago Law School.

CLE will conduct institutes on the New N.C. Rules of Evidence. These institutes will be conducted April 12 at the Wake Forest Law School courtroom, and in Raleigh at the Hilton Inn April 19. The institutes will be accompanied by a manual. The institute is specifically designed to address the practical aspects of using and applying the new rules of evidence.

The Tort Institute will be conducted March 15 in Raleigh at the McKimmon Center, March 22 at the Wake Forest Law School in the courtroom, and April 26 at the Grove Inn in Asheville. The Tort Institute will be accompanied by a completely revised and updated handbook.

Institutes have also been scheduled for Commercial and Business Law which are scheduled May 3 and 4 at the Hilton Inn in Winston-Salem and May 17 and 18 at the Velvet Cloak In in Raleigh. The N.C. Business Practice Handbook is currently being revised and will be available in May 1985.

Registration for the institutes can be made through the CLE office at the Law School or "at the door" of any meeting.

Adminsitrative considerations have delayed the publication of the Fifth Annual Review (previously scheduled for this spring) until the fall of 1985.

Law Fund Telethon Sets Records

For four consecutive nights, from January 21 through January 24, law students manned the telephones for the annual Law Fund Telethon, garnering $38,395 in pledges.

According to Lynn S. Gamble, Jr., the total pledge represented a record for the telethon. "It was as successful a telethon as we've ever had," he said.

Gamble said a total of 96 law students worked on the telethon. They received 648 pledges from law school alumni, which also was a record number.

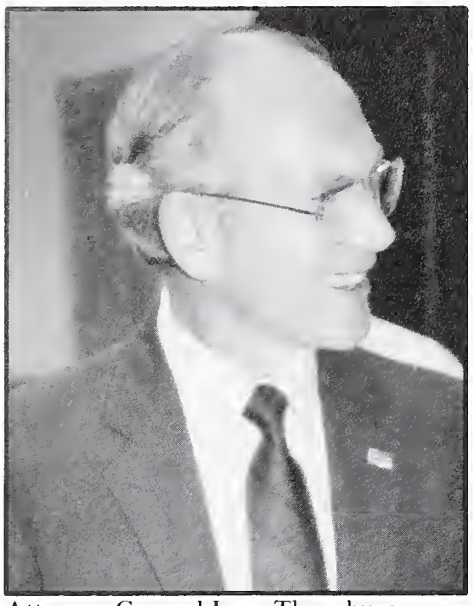
This year's Law Fund goal has been set at $375,000, Gamble said. He said he also hoped to have 63 percent of the alumni participate.

Law School News Briefs

The annual Law Day Banquet was Saturday, March 23, at Bermuda Run Country Club. The scheduled speaker was Fred Graham, legal correspondent for CBS News and a Peabody and Emmy Award winner.

Law students at Wake Forest have once again volunteered their time to assist area residents with their income tax preparation as part of the American Bar Association's Law Student Division's Volunteer Income Tax Assistance (VITA) program.

The Black Law Students Association sponsored a scholarship banquet on February 15. The guest speaker was Julius Chambers, Director-Counsel for the NAACP Legal Defense Educations Fund, Inc.


Attorney General Lacy Thornburg

Lacy Thornburg Guest Speaker

by Debbie Butler

Mr. Lacy Thornburg was a guest speaker on September 26, 1984. Mr. Thornburg's speech was sponsored by the SBA as part of the organization's 1984 Speaker Series. Speaking as a candidate for the office of Attorney General of North Carolina, Mr. Thornburg has subsequently been elected to that position.

Mr. Thornburg's comments centered primarily on his personal areas of interest and his goals for the office.

The rights of crime victims are of primary importance to Mr. Thornburg. He emphasized that accentuation of victim's rights does not deter from the importance of the constitutional rights of defendants. He believed that the rights of both parties should be able to coexist. In order to aid victims, Mr. Thornburg advocated the use of state funded victim assistance programs. To invoke the aid of such a program, a victim would make an impact statement describing the detrimental effect he suffered as a result of the crime. A determination as to aid would then be based on this information.

Among Mr. Thornburg's other areas of interest were the curtailment of drug use in the state and the expanded use of undercover operations. These programs "can be successful," Thornburg said "if education and honesty are maintained at all levels."

Professors Bond and Parker Debate Legality of Abortion

Professor James Bond (L) and Wilson Parker (R) debated the abortion issue before a packed courtroom.

by Jon Austen

On October 9th, the Women-in-Law sponsored a debate between Professors James Bond and Wilson Parker over the constutionality of abortion. The speakers stressed that they were not debating the morality of abortion, but its legality. Many interested students and visitors attended the event held in the Wake Forest Courtroom.

Professor Bond framed the issue as "whether the Supreme Court should decree public policy with respect to abortion in the guise of construing the due process clause of the Constitution." Bond answered his question negatively and attacked the Supreme Court for basing their decision in *Roe v. Wade* on policy rather than the Constitution.

Professor Bond adopted a strict interpretationalist view and criticized the Court's decision for not following the Constitution which does not explicity protect the right of a woman to have an abortion. He noted that neither the intentions of the framers, the Constitution's values, nor historical experience can justify the abortion decrees. Policy, Bond reasoned, should be left to the legislature and cannot serve as a justification for the Court's decision.

Professor Parker argued that although the Constitution does not explicitly address abortion rights, it is a flexible document and its natural law concepts of life, liberty and property must be interpreted in view of changing times. Parker noted that the history of western civilization has concentrated on the rights of the female sex over any rights of a fetus and that when the Constitution was written an abortion was legal under common law. The intent of the framers was to protect the individual's right to make private choices, Parker observed, and these beliefs have formed the individual's right to privacy. Parker justified the Supreme Court's role as a policy maker by reminding his listeners that the framers established it as a co-equal branch with the executive and legislature, and expected it to make serious decisions.

The debate, which centered around a controversial issue in the November election, held the interest of its audience. It was evident from the speakers that the abortion issue has no simple moral or legal answers.

Klan Defense Attorney Robert Cahoon Offers Jury Selection Advice

by Meredith McGill

Robert Cahoon, leading defense counsel for the widely-publicized Klan-Nazi murder trial, was the featured speaker at a Student Trial Bar program on November 14. His topic was voir dire, the "inexact science" of selecting jurors.

Although Mr. Cahoon's speech was billed "How to Pick an Impartial Jury," he advised the audience that an

attorney's true task is selecting a jury which is partial to your client. The voir dire system allows the attorney to communicate with jurors, and for this reason Mr. Cahoon finds the jury selection process of the state system superior to that of the federal court system, where the judge questions jurors and is free to decline questions presented by the attorney.

"You win or lose a case when you pick the jury," said Mr. Cahoon. His years of experience have taught him that objective indicators of juror sympathy or lack of sympathy for the client are often faulty. "Some of your sure bets don't pan out," he laughed. Mr. Cahoon related an anecdote from the Klan-Nazi trial which illustrated his point. The District Attorney had engaged a leading psychologist to analyze juror behavior and to select jurors who would be likely to convict Mr. Cahoon's client. By the end of the first day, Mr. Cahoon offered to pay the psychologist's fee himself, as the expert for the prosecution had selected jurors with whom the defense was delighted. Mr. Cahoon chuckled, "He (the psychologist) actually thought the object was to pick an impartial jury."

In criminal jury selection, the defense must eliminate people who identify themselves with law and order, Mr. Cahoon explained. These persons tend to believe the defendent is guilty or he would not have been arrested, he said. Some examples are those persons with law enforcement connections, mill plant supervisors, insurance company employees, and victims of crimes or persons who are related to or friendly with such victims. Some jurors will fiercely declare their lack of preconceived notions about the trial, Mr. Cahoon said, adding that the attorney must not rely on verbal representation and will learn to ferret out those persons. Good ehoices for the defense, according to Mr. Cahoon, are manual laborers, blacks, and extroverts, all of whom tend to be more open-minded, and less willing to make snap judgments about a defendant's guilt or innocence.

The defense attorney and the defendant can have a substantial impact upon the jury's decision. "Be conscious," admitted Mr. Cahoon, "of potential jurors when you enter the courthouse." Even the minor incidents of an attorney beating a potential juror out of a parking space or his standing out in the hall joking with another attorney may make an unfavorable impression on a juror and adversely affect the outcome of the trial. As for the defendant, Mr. Cahoon offered the following advice: "Tell him to come to court dressed reasonably, and caution him not to be acting like a jackass."

An attorney should ask his clients if he has serious objections to any juror, he asserted. But Mr. Cahoon added that the young attorney must learn to rely on his own judgment. "Don't be too impressed with your lack of experience," said Cahoon, who seems to find jury selection more of an art than a science. "When you sit down to pick that jury, it's the best game in town."

Public Interest Law Organization Founded

by Lisa Singer

The Public Interest Law organzation (PILO) was begun in November of 1984. Its founder and president, third-year law student, Julie Ansell, saw a need for adding diversity to the more traditional bent of many of WFU's programs.

The organization's purpose is to alleviate many of the barriers to obtain employment in public interest law. It hopes to provide resources such as information and money to students interested in exploring alternatives to traditional law careers. The organization is broad-based, embracing all aspects of the political spectrum. It mainly serves to provide students with access to the many opportunities available in this field.

A student interested in working in a public service job must present a proposal to a Board of Directors which is chosen by the Organization. The Board consists of two faculty members, the director of placement, two students, and a member of the Public Service Comittee. The student must show how the job will provide personal benefit, as well as how it will benefit the Wake Forest community.

PILO activities planned for 1985 include a panel discussion of speakers from different areas of Public Interest law and the development of a Placement Handbook to provide students with information about opportunities in this field. In February, the organization sponsored a panel discussion on Martin Luther King.

Panel Discusses $52 Million Award To R.J.R.

Last November, lawyers involved in R.J. Reynolds Tobacco Company's successful claim before the Iran-United States Claims Tribunal presented a panel discussion of the case in Professor George Walker's International Law class.

The discussion was chaired by Samuel B. Witt, III, Vice President, General Counsel, and Secretary for RJR Tobacco Company. Also appearing were Peter J. VanEvery, RJR; J. Robert Elster, of Petree, Stockton, Robinson, Vaughn, Glaze & Maready, Winston-Salem; and C. Steven Heard, Jr., of McGarrahan & Heard in New York City. Mr. Elster handled the Winston-Salem aspects of the litigation, and Mr. Heard handled a related case in New York City.

To assist in preparation for the class, Mr. Elster's firm prepared a book of pleadings and other documents related to the case.

The two-hour discussion covered such topics as the logistics of filing an international law suit, the problems lawyers face in balancing business needs and legal aspects of cases, and preparations needed for filing claims before the Tribunal. The result in the R.J.R. case was the largest single award to date: $36 million in principal, plus accrued interest of $16 million.

Class attendance was augmented by members of the Wake Forest International Law Society, law students, members of the bar, and the law faculty.

After the discussion, panel members were entertained at a Graylyn Conference Center reception.

Private, U.S. Army, 1945

Soldier, Counsellor, Professor and Father

Emory M. Sneedon Brings Wealth of Experience to New Post as Fourth Circuit Judge

by Thomas C. Hildebrand, II

If one were asked to describe the life of Emory M. Sneeden in a single word, that word would surely be "diverse." On second thought, "distinguished" would be more fitting. Or maybe "interesting." In short, Judge Sneeden's life defies a single word description, for at the age of 58, he has been a foot soldier, a brigadier general and Chief Judge of the Army, a noted scholar, Chief Counsel to the United States Senate Judiciary Committee, Lecturer of Law at the University of South Carolina School of Law, partner in a large South Carolina law firm, and is now a judge on the United States Fourth Circuit Court of Appeals.

Born in Wilmington, North Carolina, Judge sneeden remained in his native state to get his education. He earned both his B.S. and J.D. degrees from Wake Forest, and then attended the Hague Academy of International Law in the Netherlands.

Much of Judge's Sneeden's colorful career has been spent in the Army. World War II saw him fighting as a private in the 11th Airborne Division in the Pacific Theater; Sneeden again saw action as an infantryman in the Korean Conflict. After Korea, Sneeden joined the Army's Judge Advocate General's Corps, where he rose to the rank of brigadier general and was appointed Chief Judge of the entire Army.

Sneeden went to Vietnam with the JAG Corps. While the JAG Corps may sound like a sedate branch of the Army after being in the infantry, Sneeden would take weekly rounds in a helicopter gunship so that he could stay in touch with the men he represented. "I can remember a few interesting times," recalls Sneeden. "Once, after making our usual rounds over the territory, we returned to camp to find a dozen bullet holes in the bottom of the chopper. Additionally, our camp would get mortared about once a month, at which time the judge would recess for the day." Emory Sneeden's exploits have not gone unrecognized, as noted in the Congressional Record, June 22, 1981 (E3095):

> Emory M. Sneeden has served wherever his Nation needed him most. No man can receive the Legion of Merit 3 times, be awarded the Air Medal, Senior Parachute Badge, Republic of Vietnam Parachute Badge, and 18 other military citations without being where the action is.

After retiring from the Army in 1975, Judge Sneeden joined the staff of the United States Senate Judiciary Committee under the tutelage of Senator Strom Thurmond of South Carolina. While working with the the Senate, Sneeden would recommend legislative programs and in this way he gained his expertise in antitrust law. Sneeden also penned legislation against the unionization of the military. He recalls Senator Thurmond asking him to take the

Chief Judge, Court of Military Review, 1975

U.S. Senate Committee on the Judiciary, 1980

Senator's place at a "small speech before two or three reporters on the topic of military unionization." When Sneeden arrived at the "small speech," it turned out to be a major panel discussion before over 100 reporters. The panel included nationally known pro-unionization author David Courtwright. "I was just glad that Courtwright went first to give me time to make some notes," said Sneeden.

When asked to state the most valuable lesson learned from his Senate experience, Sneeden notes that the ability to compromise on non-essential items was an important lesson to learn, especially in his role as Chief Counsel for the Judiciary Committee.

Although Judge Sneeden's life has been action-packed by any definition, it has not been so busy that scholarly pursuits have been forgotten. Thus, Judge Sneeden has been a guest faculty participant in seminars at the Harvard University School of Law, the John F. Kennedy School of Government, and the Brookings Institute. Sneeden's scholarly expertise in the antitrust field is evident in that he has authored major articles that have been published in *The Antitrust Bulletin* and in the *Harvard Journal on Legislation.*

Upon leaving the Senate Judiciary Committee in 1978, Judge Sneeden decided to put his experience in antitrust matters to more theoretical use as a lecturer in law in antitrust at the University of South Carolina School of Law. When asked about any changes that law schools have undergone since he attended law school, Judge Sneeden remarked that he felt that law schools better prepare students these days in that the schools now offer more choice in their curriculum, while at the same time being more pragmatic in preparing students for the "real world." Sneeden added that he would recommend that law students try to gain practical experience in school, and suggested clerking as the best way to gain that experience.

After his tenure at the University of South Carolina Law School, Judge Sneeden joined, as a partner, the South Carolina law firm of McNair, Glenn, Konduros, Corley, Singletary, Porter & Dibble. Again specializing in antitrust law, Judge Sneeden represented clients from major cities across the United States. Sneeden notes that one of the more colorful clients he represented during this period was T. Boone Pickens during his Gulf Oil takeover bid. Sneeden was doing antitrust work with the McNair firm when he was called to the bench as a Fourth Circuit Judge.

While some persons have labeled Emory Sneeden an ultra-right "Reaganite" appointee, Sneeden maintains that his views are centrist. Sneeden acknowledges that he "is tough on criminals." However, he smiles when he thinks of being called a "right-winger," for he states that his eclectic experiences in life have taught him to view a matter from all angles. This ability to empathize apparently comes from having to compromise in the Senate and from serving in so many roles in the Army. (Sneeden was a judge, prosecutor, defender and advisor in the Army).

Whatever a lawyer's notions might be as to Judge Sneeden's judicial leanings, Sneeden points out that he had better be prepared if he comes before Sneeden's panel. Sneeden states that as a judge he is thoroughly prepared for each oral argument by having read the briefs and the record, and by having done independent research into the matter. Sneeden feels that he owes it to the attorney to be prepared, and vice-versa.

Perhaps one of the most interesting questions that can be asked of a person who has attained a high degree of success in their professional is "How did you do it?" To this question Judge Sneeden gave an answer often given by the successful — "hard work." When asked why he has worked so hard, Judge Sneeden does not rehearse a long philosophical response, but merely states that "I like to be challenged and feel that you get old by settling in." Sneeden does acknowledge that one of his professors did have a profound influence on him with respect to hard work, noting that "Professor Lee would demand the last drop you had."

As to advice for the young attorney just starting practice, Judge Sneeden offers two suggestions. First, "keep your word! Don't give your word lightly, and sometimes not at all. But when you do, keep it." Second, "Do your best and work hard. If you are a clock-watching lawyer, you are either a genius or a bad lawyer. I know very few geniuses."

Horace N. Kornegay Represents Tobacco Industry in Washington

by Pete Radiloff

An alumnus of distinction and a man of whom Wake Forest University can be proud is Mr. Horace N. Kornegay, Chairman of the Tobacco Institute. The Tobacco Institute's aim is to foster public understanding of the smoking and health controversy and to increase the awareness of the historic role of tobacco and its place in the national economy. The Institute transmits information and viewpoints on tobacco matters to the public, the news media, and the government at local, state and federal levels.

Some months after he announced his intention to retire from the Congress, Mr. Kornegay began his involvement with the Tobacco Institute. He had served in the United States Congress from the Sixth Congressional District of North Carolina for four terms — a total of eight years — beginning January 3, 1961 and continuing to January 3, 1969. While in the House of Representatives, Mr. Kornegay served on the House Committee on Interstate and Foreign Commerce and on the Committee on Veterans Affairs, two of the major standing committees of the House of Representatives. He was offered the position of Vice President and Counsel of the Tobacco Institute in Washington. He accepted because of his interest in the welfare of the tobacco farmer, the tobacco industry, and the economic importance of this agricultural product to his own state of North Carolina, and to other states where tobacco is an important crop to the economy. Mr. Kornegay began his duties with the tobacco institute on Janaury 6, 1969 with the intention of staying only three years. On May 15, 1970, he was elected by the Board of Directors of the Tobacco Institute to succeed Earle C. Clements as President and Executive Director of the Institute. On February 28, 1981, he was elected to the newly-created position of Chairman of the Board.

Mr. Kornegay feels that the anti-smoking campaign, particularly since the late 1960's, has been a "scare campaign" of "exaggerated" proportions. The Cancer Society and Heart Association have been joined in a coalition against smoking since the late 1970's, and have been assisted by anti-smoking lobbyists in Congress in what Mr. Kornegay terms a "blue print for destruction" aimed at raising taxes on tobacco, prohibiting smoking advertisements and abolishing smoking altogether.

Enemies of the tobacco industry cited by Mr. Kornegay are G.A.S.P. lobbyists in the State Legislature who have come up with unreasonable proposals for the smoking controversy. The chemical industry, uranium industry and the asbestos industry have tried to divert pressure from their own industry hazards to the tobacco industry. Mr. Kornegay feels these groups are "not following facts, but just making ridiculous accusations." He feels the modern press is at fault for the anti-smoking campaign because it is following the trend to denounce tobacco and will print anything against the industry without substantiating allegations. Pro-tobacco advertising is tough to get on television because of the media's anti-smoking bias.

Mr. Kornegay believes that the members of Congress are doing a good job representing the interests of the tobacco industry and that the President does not give the industry any problems. Those congressmen who are against the tobacco industry are those congressmen who do not have tobacco interests at home to represent.

Kornegay thinks that "America's cigarette smokers live under conditions of restriction, taxation, segregation and prohibition that would be unacceptable if imposed on any

group of people for any other reason. In a country founded on the principle of equality for all, smokers have become second class citizens enjoying less than equal rights." He has no objections, however, to rules prohibiting smoking on elevators and airplane sections.

The remedies outlined by the Chairman to stop the "constant war that has been waged against tobacco" are for the industry: "(1) to admit that the tobacco industry is in trouble; (2) to face up to the fact that it is up against a dedicated and well-drilled enemy which has launched a hydra-headed attack against every segment of the tobacco economy; and (3) to make a commitment to victory. And that can only be achieved by making a commitment to industry unity."

Mr. Kornegay's strong devotion to North Carolina and its tobacco industry stems from his being a native son. He was born in Asheville, North Carolina, and later resided in Greensboro where he was a graduate of the Greensboro Public School System. Mr. Kornegay acquired both his B.S. and J.D. degrees from Wake Forest College where he was actively involved in school activities.

In 1949, Kornegay began a general law practice in Greensboro and was a member of the Greensboro, the North Carolina and the American bar associations, as well as the Federal Bar and the American Judicature Society. Before being elected to Congress in 1960, he was twice elected solicitor of the 12th Prosecutorial District of Guilford and Davidson counties. Mr. Kornegay has also been involved heavily in church and civic work throughout this state.

Mr. Kornegay takes great pride in having attended Wake Forest University as an undergraduate and later as a law student, attributing much of his success to its teachings. Mr. Kornegay is a member of the Board of Visitors at Wake Forest University and prides himself on being an extremely loyal alumnus. In 1972 he received the Outstanding Law Graduate Award from Wake Forest University. Mr. Kornegay believes the future is bright for Wake Forest and its law school as proven by the outstanding lawyers it has produced.

Fred Williams Provides a Gift for the Future

by Rhesa Hipp

Many of the Wake Forest college alumni have fond memories of the original campus located in Wake Forest, N.C. Some of them might even recall the College Soda Shop which opened next door to the town's Post Office in 1935. Run by students Fred Williams and Ben Elliott, the shop stayed open until midnight, catering to the needs and whims of the college population. Here, one could purchase school supplies, a sandwich or popcorn to take to the movie down the street.

According to Fred Williams, he has had a "happy and interesting life since the days of the College Soda Shop." Ever since his matriculation at the undergraduate school in 1933, the town of Wake Forest and Wake Forest College have played a significant role in the development of his personal life and his career. He, in turn, has made valuable contributions to both the university's undergraduate and law schools through the years. Wake Forest College has undergone several changes including its relocation in Winston-Salem, and accreditation as a university, but Williams' support has remained constant.

Fred Williams came to Wake Forest College in 1933 from the small town of Tryon, located in the northwestern mountains of Georgia. He graduated from the undergraduate school in 1937, although he was actually enrolled as a member of the class of 1938. During his years at Wake Forest, he put himself through school by operating the College Soda Shop. From 1935-36, he served as the business manager of the school's newspaper, the *Old Gold and Black*. The newspaper ran advertisements to promote his soda shop business.

In 1936, he met Vida Thompson, a student at Meredith College, affectionately referred to as the "Angel Farm" by the Wake Forest students. In 1937 they were married and settled in the town of Wake Forest where Williams began law school in 1938. During the time the Williams' resided in Wake Forest, three children were born: Nancy Williams Cheek, David and Fred Williams, Jr.

After graduating from the law school in 1940, Williams opened a law office in Raleigh, N.C. His practice was interrupted in 1942 while he served with the Army Corps of Engineers as a civilian in the southeast real estate division. After reopening his Raleigh law office in 1945, he became involved in representing a Greensboro, N.C. client and subsequently moved there in June, 1947. He has remained in Greensboro since that time, representing real estate developers as house counsel.

Williams retired in 1977; however, he still maintains a keen interest in real estate work as well as in Wake Forest University. He served as President of the University's general alumni in 1960. His son, Fred Williams, Jr., obtained his undergraduate and law degrees from the school. Based on these experiences, as well as numerous others, he has observed the school's growth and transformation, and has supported its endeavors to maintain academic excellence. A recent gift which he has bestowed upon the law school is a tremendous step in assuring this excellence in the future.

The Bess and Walter Williams Fund, named in tribute to Fred Williams' parents, has been established by him to eventually fund a distinguished professorship within the law school. The gift will accumulate interest for a number of years prior to activation. Surplus funds will be used as scholarships for individual students. According to Williams, he has waited almost fifty years to give this scholarship; the ten year wait to allow for accumulated interest is short in comparison.

When Fred Williams reminisces about Wake Forest and the College Soda Shop, it is clear that his college and law school days were a happy and enjoyable time. When he relates satisfaction derived from his career, it is clear that the educational opportunities he received from the school have been meaningful to him. The truest gift an alumnus can bestow is one that makes these experiences possible for others. The Bess and Walter Williams Fund will enhance the law school program and its partipants as a gift for the future.

Lawyer Homecoming Weekend

Stanley Chauvin

Clark Smith

Grady Barnhill

Max Justice

by Rhesa Hipp

Lawyer Homecoming Weekend, held in Winston-Salem, on October 12-13, 1984 was a positive and optimistic celebration. Law school graduates from all over the country returned to Wake Forest to meet old friends, attend homecoming activities and cheer the Wake Forest University football team to a victory over North Carolina. Both the Partners' Reception and Banquet held on Saturday, October 13 took place at Bermuda Run Country Club.

H. Grady Barnhill (J.D. '58), President of the Lawyer Alumni Executive Committee, presided over Friday evening's Twelfth Annual Partners' Banquet, which was attended by approximately 180 people. Chaplain Edgar D. Christman (J.D. '33) delivered the invocation. During the dinner, D. Clark Smith, Jr., (J.D. '75), President-Elect of the Lawyer Alumni Executive Committee, gave a brief address about the Partner's Program. Since its inception in 1972, the program has helped raise over $3,000,000. in gifts and grants, the equivalent of $50,000,000. in endowment.

John D. Scarlett, Dean of the Law School, recognized new members of the various giving levels of the Partner's Programs: Partners, Executive Committee Partners, Managing Partners, Senior Partners and Dean's Associates. Max Justice (J.D. '70), the past LAEC President, presented a special award to Julius Corpening for his years of service with the lawyer alumni. Mr. Corpening is Director of Development and Estate Planning for Wake Forest and is actively involved with law school development. Lyne Gamble, the Law School Development Officer, is responsible for day-to-day tasks within the Law Fund itself.

William Womble, of the Winston-Salem law firm, Womble, Carlyle, Sandridge and Rice, introduced L. Stanley Chauvin, Jr. the distinguished speaker. Mr. Chauvin is with the Louisville, Kentucky law firm of Barnett and Alagia. He received his J.D. degree from the University of Louisville in 1961. Among his many distinctions, Mr. Chauvin has served as President of the Louisville Bar Association and as Chairman of the House of Delegates of the American Bar Association. In 1983, he was named the Outstanding Lawyer in Kentucky by the Kentucky Bar Association.

Mr. Chauvin's address contained the optimistic overtones that pervaded the entire weekend. He gave an interesting account of the law school's history and pointed out its assured

Julius Corpening

future success, due in part to "impressive" support from the alumni. Individuals who had been noteworthy in the law school progress were recognized. Mr. Chauvin quoted the following remark from James P. White, Consultant of Legal Education for the American Bar Association:

> Under Dean Scarlett's leadership and with the support of President Hearn, the school has made significant progress in the past several years and is an exciting and creative institution. Wake Forest Law School has done a marvelous job in working with the bench and bar in developing their knowledge and support about the Law School.

On Friday afternoon and Saturday morning the Law Board of Visitors met on the Wake Forest campus with Jack Roemer presiding. The Lawyer Alumni Executive Committee joined the Board for the Saturday meeting, which included remarks by Thomas Hearn, President of Wake Forest University. Both meetings dealt with the university's planning process, with Dean Scarlett providing an update on the law school's progress in this area.

The Saturday afternoon homecoming reception at Bermuda Run was sponsored by Lawyers Title of North Carolina Incorporated. Later that evening the Lawyer Homecoming Banquet took place with H. Grady Barnhill presiding. Dean Scarlett briefly addressed the gathering. Approximately 150 people attended this upbeat affair which featured entertainment by professional jazz saxophonist Jim Houlik, accompanied by piano.

Those alumni who attended the homecoming weekend heard optimistic reports of the law school's future. They were also reminded of the school's colorful past. For those unable to attend, the *Jurist* would like to share a portion of Mr. Chauvin's speech in which he read aloud a letter written by a Wake Forest student attending the college in 1835:

"It is now night —
Oh what a place for meditation!
How calm, how still —
Nothing but the gentle breeze
stealing among
the dead leaves as they hang upon
the trees.
But hark, there sounds the deep
notes of the bell —
Tis Nine O'clock.
Now listen — how soft and
melodious are the
tones of those flutes —
How beautifully do they harmonize
with those of the violin. The
sharp, hissing sounds are from
the dulcimer.
Moonlight and music — but enough.
There is no place like Wake Forest..."

NCAB Taps Fred Fletcher for Hall of Fame

(Reprinted with permission of the *North Carolina Association of Broadcasters Newsletter)*

NCAB honored veteran communications lawyer and North Carolina native Frank Fletcher with induction into the NCAB Hall of Fame at the Annual Convention. The Hall of Fame honors those who have made significant and lasting contributions to broadcasting in North Carolina. Thirty-five other broadcasters are members of the Hall of Fame.

Fletcher has been practicing communications since the Communications Act was first passed by Congress in 1934. For 50 years he has devoted his skill and attention to advising and representing broadcasters. He is, in Wade Hargrove's words, a "lawyer's lawyer."

In 1934, he helped convince his father, A.J. Fletcher, to go on the air with WRAL (AM) in Raleigh. In the mid '50's he was instrumental in helping Capitol Broadcasting Company acquire the license to operate WRAL-TV in Raleigh. From there, Fletcher helped devise the business and legal strategy that went into the development of Capitol Broadcasting as one of the most respected and successful broadcast enterprises in the country.

Fletcher has had a major impact on broadcast stations and the broadcasting business in markets from New York to California. In North Carolina alone he has represented at least 34 stations.

The Hall of Fame award adds to the recognition Fletcher has already received from his peers in the legal profession, who, among other honors, chose him several years ago to be President of the Federal Communications Bar Association.

Editor's Note: Frank Fletcher is a 1932 graduate of Wake Forest University Law School (LLB). He is a senior partner in the law firm of Fletcher, Heald and Hildreth in Washington, D.C. He and his brother, Floyd Fletcher, are responsible for the A. J. Fletcher Law Scholarship Fund.

A Tale of Two Alumni

by Pam Santoro

Having one's own law practice, while a dream for many lawyers, is a reality for two 1978 graduates of the Wake Forest University School of Law. Friends in law school, Richard Heller and Jeremy Flachs have both dared to hang up their own respective shingles. In recent interviews with both men, the *Jurist* has discovered that each is doing well in New York City and Washingtin, D.C., respectively.

Heller and Flachs are both northerners. Heller grew up in New Jersey and ended up in Manhattan. Flachs grew up in Canada. Each man ended up in beautiful Winston amongst the magnolia trees for law school. Heller found out about Wake Forest while in High Point at a furniture show. While at the show, he befriended a person whose roommate's fiancee' was a law student at Wake. Intrigued by what he had heard, he interviewed at Wake, fell in love with the campus and the rest is history.

Flachs, being from Canada, also found out about Wake Forest in an indirect fashion. He attended Memorial University in St. Johns Newfoundland Canada for two years. Anxious to transfer, he applied to Wake Forest as an undergraduate and was accepted. With the hope of pursuing both his educational and baseball careers, he packed up and came to North Carolina to finish his undergraduate degree. Although the baseball career was halted, the education continued at Wake right through law school.

While at Wake Forest both Heller and Flachs contributed to the law school in various ways. Heller was on the Law Review and was a Stanley Cup Competition participant. Flachs was on the Moot Court Board, was a legal bibliography assistant, co-chairman of the Environmental Law Society and even found time his third year to write an article for the Law Review that was picked for publication.

Heller has recently opened a practice in New York City with Joseph Krassy specializing in Blue Sky Security law. Their practice was so unique that it caught the attention of the ABA Journal in an article on the two men entitled "Hungry But Hopeful in N.Y.C." by Tim Harper. The Jurist would like to share the following portion of that article which appeared in the Dec. 1984 issue of the ABA Journal (Reprinted with permission of the ABA Journal, The Lawyer's Magazine).

photography by Jeanne Strongin

Richard Heller

Heller graduated from Wake Forest Law School in 1978 and became a blue-sky specialist. He was hired as a permanent associate, with no chance at partner, at Cahill Gordon & Reindel in New York. In early 1983 he was approached by another big New York firm, Fried Frank Harris Shriver & Jacobson, to create and direct its blue-sky department.

Blue sky is one of the most arcane and antiseptic areas of the law. Put simply, it is state regulation of securities, a movement that started in the Midwest after the turn of the century and spread to the coasts well before the federal Securities and Exchange Commission was created in 1933. The aim was to protect innocent citizens from flim-flam men peddling fancy but worthless gilt-edged paper to an unsophisticated but cash-rich and investment-crazy America.

Every time a security changes hands, there are blue-sky considerations. But for many big law firms blue sky is a headache, a loss leader, a necessary evil. With 50 sets of state laws to be considered, blue sky represents re-inventing the wheel for every big deal. That kind of expertise is needed only once in a while, and no one walks in the door with a multimillion-dollar deal just because a firm has a good reputation for blue-sky law. Yet an overlooked blue-sky law technicality can sour a big deal and even send people to jail. And, after all, it would be embarrassing for a big firm wooing a big client to admit it couldn't handle the entire package in-house.

There are only three or four dozen lawyers in New York who are part of what they call the blue-sky community, so Krassy and Heller quickly got to know each other. They became friendly business associates but not really friends. They called each other to talk about different deals and strategies, and compared notes on the latest blue-sky developments here and there.

One afternoon in August 1983 they finished a business lunch at Delmonico's, and over coffee Heller began dreaming aloud about how great it would be to start a strictly blue-sky law firm. As they drank more coffee and talked, they realized they had shared a dream for a long time. "Joe got pretty excited about it," Heller said. "His excitement caused me to think about him as a real-life partner. From my point of view, he had the seasoning I felt I lacked."

Neither said anything that day at lunch, nor do they say much today, about their apparent dead ends at the big firms. Heller was a permanent associate at Fried Frank, and Krassy felt his chances for partner were slim because Wilkie Farr was retrenching after two years of rapid expansion. For whatever reasons, they concentrated on the positive aspects of a new venture rather than the negatives of the current jobs.

"Financing was our first and foremost concern," Heller said. Heller's brother's wife suggested he apply for a loan at the suburban New Jersey bank where she was vice president. He did, and got a $27,000 unsecured loan at 2.5 percent over

the prime rate. Krawsy went to the Chemical Bank, where Wilke Farr had its accounts, and talked to account officer Joan Thomas. She approved him for a $30,000 loan, also unsecured but at only three-quarters of a point over the prime. She offered the same deal to Heller, who took it and paid off the New Jersey loan.

At first Krassy and Heller tried to write partnership agreements, but they kept getting bogged down in overoptimistic details sueh as how to divide profits over $200,000 a year. They finally junked the partnership in favor of a simple corporation that made them equal shareholders.

They moved into their new office in February 1984, bringing along two clients, both referrals from friends of Heller from the two months they had worked out of Heller's apartment. In the first case, at their hourly rate of $125, Krassy & Heller earned $1,875 for blue skying two mutual funds. In the second they made a $5,000 straight fee on a real estate syndication.

More deals came along. They got $7,500 for a 50-state dealer registration. The Patrician Group, a real estate syndication firm with $125 million a year in sales, had them blue sky one offering, then another. They got their biggest fee, $10,000 — it would have been $15,000 to $40,000 at one of the big firms, they insist — in a syndication deal for real estate tax shelters on Manhattan's Upper West Side.

They blue skied a movie deal, a limited partnership for a racehorse and a syndicate for marketing an invention to mist-spray cold medicine. Krassy, an ABA member since 1977, continued to serve as a member of the State Regulation of Securities Committee of the ABA Section of Corporation, Banking and Business Law.

Their roles began evolving — Krassy as the office overseer who paid the bills and rode the books, Heller as the rain-maker. But after the deluge, the rain became a drizzle and then, by summer, only an occasional shower.

Joan Thomas and Chemical Bank have approved more money for them, but Krassy and Heller don't think they'll need it. They predict that as business picks up in 1985, each will get back their initial $20,000 investments during the next year. They said they hope to buy a word processing machine and within a year have enough business to justify hiring a paralegal.

Showing Confidence

Meantime, they are not suffering — too much. The Hellers, who took a trip to Europe on vacation in 1983, went to Connecticut in 1984. The Krassys, who sailed in the Caribbean in 1983, went camping in New England in 1984.

"We're going to make it, no question," Krassy said. "The universal experience is that prospecting takes time. What we're doing now is laying the groundwork for later."

"It's too soon to look back, to say whether we would have done anything differently," Heller added. "We can't tell yet."

"Ask us again," Krassy suggested, "in a year or two."

The *Jurist* decided to wait less than a year and call up Mr. Heller to see how things are progressing. We were pleased to find out that they are "no longer hungry and still hopeful." By the time the December '84 issue had hit the press, the firm had brought in six industrial development bond transactions from a Wall Street investment banker. "The firm is based on a new concept and will take time to be accepted," says Heller, but "I am hopeful."

Flachs' story is of a totally different character. Flachs graduated from Wake and went back to Philadelphia to take the Pennsylvania bar. "My biggest mistake," says Flachs, "was not actually job hunting before I passed the bar." Frustrated by the lack of offers, Flachs picked up his bags and moved to Washington, D.C. with the hope of working for the Environmental Protection Agency.

When Flachs got to D.C., however, he once again was facing a dead end. Refusing to give up, he called a semi-retired attorney he knew who led him in the direction of a young attorney who was just starting out. Flachs found lots of work to be done in this general practice which serviced the D.C., Virginia, and Maryland area. While clerking, he took and passed both the D.C. and Virginia bars. After a year and a half of "learning his way around," Flachs decided in the fall of 1980 to venture out on his own.

Unlike Heller, Flachs did not obtain a partner for this venture. He also did not obtain his own office. He started by subletting space from existing law firms. He presently has office space in both Virginia and D.C. Also, unlike Heller, Flachs practices a large variety of law. Flachs claims "I do a lot of personal injury work. That field is quite ironic in that the grosser the injury the more valuable the case." Along with personal injury, Flachs also dabbles in domestic relations, workman's compensation, criminal cases, and some light business work. He does a lot of work for tax companies which refer a large number of his personal injury clients to him. Flachs estimates that "50% of the clientele are not native born Americans."

Although both Heller and Flachs have taken very different paths in the quest to be on their own, they have the same advice to people who want to start their own practice — "Keep the overhead low" is how Heller put it as compared to "Do not have a large number of fixed expenses" proclaimed by Flachs. In our interview with Heller, he seemed very enthusiastic as to Flachs' rent situation. "Being in Midtown (N.Y.C.) can be expensive. Share space with someone else if you can — sublet!" And that is exactly what Flachs has done. Another piece of advice Flachs would give would be "be prepared to bite the bullet" and "make sure you get your feet wet in the area of law you want to go out in before going out on your own. Have some idea of what you want to do." Along these lines, Heller thinks that it is "good to carve out a specialty." He adds "we are the first and only law firm to my knowledge to specialize in this area (Blue Sky) of law."

The other thing the two men agree upon is that Wake Forest has been a positive influence in their lives. Between the two men, Wake has enabled them to pass three different state bars and the D.C. bar. "I have a great loyalty to Wake Forest, both to the undergraduate and law schools and I appreciate the education I have received. I will never forget it" proclaims Flachs. "I have never seen Wake people that didn't stick together" says Heller. "After the article appeared in the ABA journal, classmates and alumni from all over the country sent me letters telling me to 'hang on.' It was a special feeling." The Wake Forest Jurist has a "special feeling" about both these young graduates and wishes them continued success.

Wrongful Life: The Court's Dilemma

By Meredith J. McGill

On November 20, 1984 the North Carolina Court of Appeals joined an exclusive number. In deciding *Azzolino v. Dingfelder,* ___ N.C. App. ___, 322 S.E. 2d 567, 585 (1984), it became one of only four jurisdictions in the United States to recognize the judicial action of "wrongful life."[1] The "wrongful life" issue is whether a child born with some birth defect may bring an action in tort against a health care provider who failed to fully inform his parents as to the risk of the child being born in a defective condition so that the parents could decide either to continue or terminate the pregnancy.[2] This article will outline arguments for and against recognition of the "wrongful life" action, focusing on considerations of policy, medical practice, and precedent.[3]

I. "Wrongful Life": Its Origin.

The facts in *Azzolino v. Dingfelder* form a paradigm case for the "wrongful life" action. [The facts as presented are those alleged by the plaintiff, since the case came to the Court of Appeals after a directed verdict by the lower court.] Jane Azzolino, age 36, visited a county health clinic and learned that she was pregnant. Worried that the baby might be born with Down's Syndrome, she inquired about having an amniocentesis procedure[4] performed to determine if the fetus was normal.[5] The clinic doctor assured Mrs. Azzolino that she needn't be concerned because the primary risk associated with Down's Syndrome occurs when the maternal age passes 37. The doctor did not recommend that Mrs. Azzolino undergo amniocentesis, since she was to be only 36 at the time of delivery. Mrs. Azzolino's son was born severely mentally retarded with accompanying physical abnormalities. In the ensuing lawsuit, the North Carolina Court of Appeals recognized both the parents' and the child's right of action against the doctor.[6]

Four courts had recognized a "wrongful life" cause of action before *Azzolino,* with the California Court of Appeals being the first. In *Curlender v. Bio-Science Laboratories,* 106 Cal. App. 811, 165 Cal. Rptr. 477 (1980), a child was born with Tay-Sachs disease[7] as a result of a laboratory's negligent testing which produced false negative results. Two years later, in *Turpin v. Sortini,* 182 Cal. Rptr. 337, 643 P.2d 954 (1982), the California Supreme Court allowed a profoundly deaf child to sue a physician who failed to detect hereditary deafness in an older sibling. A third "wrongful life" claim, *Harbeson v. Parke-Davis,* 98 Wash. 2d 460, 656 P.2d 483 (1983), involved a mother who ingested an anti-seizure drug prescribed for her during pregnancy. Although the parents asked about possible detriment to the fetus from the drug, the doctors gave them incomplete information. Two children born thereafter suffered from a severe birth defect known as fetal hydantoin syndrome.[8] Finally, the New Jersey Supreme Court recognized the "wrongful life" cause of action in *Procanik v. Cillo,* 97 N.J. 339, 478 A.2d 755 (1984). In that case a doctor's innacurate interpretation of a rubella test resulted in the birth of a child with various physical abnormalities.

"Wrongful life" had its genesis in an action known as "wrongful birth," an action brought by parents who were not informed as to the risk of their child's being born with a defect. The New Jersey Supreme Court in *Gleitman v. Cosgrove,* 49 N.J. 22, 227 A.2d 689 (1967), refused to recognize either the child's or parents' action on the grounds that public policy precluded recognition of an injury from being brought into existence. Then, in 1979 that court reconsidered the same issues in *Berman v. Allen,* 80 N.J. 421, 404 A.2d 8 (1979), and chose to recognize the right of parents to sue for a child's "wrongful birth." Legal and technological changes occurring in the interim accounted for the reversal, a switch typical of courts across the nation.

Decisions such as *Roe v. Wade,* 410 U.S. 113 (1973), and the Karen Ann Quinlan case, *Matter of Quinlan,* 70 N.J. 10, 355 A.2d 647, *cert.* denied, *sub nom Garger v. New Jersey,* 429 U.S. 922 (1976), recognized the right of the individual or his family to make decisions affecting the right to life and death. In the last decade, medical technology experienced exponential development in diagnostic techniques such as amniocentesis and specialized genetic counseling, so that physicians now can predict or discern many defects and relate the information to parents either before conception or early in the pregnancy. With public awareness of these advances came heightened expectations of information, predictability, and normalcy in a once-mysterious dominion. The developments chronicled above not only forced the "wrongful birth" action to fruition in seventeen jurisdictions, but also created a fertile ground for the recognition of "wrongful life."

Those jurisdictions which recognize the right of the child to sue for its "wrongful life" fit the cause of action in a traditional tort framework of duty, breach, causation, and damages. Courts have found a duty to inform the parents of the risk or presence of fetal abnormality and have found that this duty extends to the fetus as well. Failure to inform, whether caused by inaccurate testing or negligent disclosure, constitutes a breach of that duty.

The second portion of this article will discuss the aspect of duty in "wrongful life" actions. Proximate causation in this context is impossible to determine, so the courts assume the parents' allegation that they would have chosen to terminate the pregnancy had they been accurately informed.[9]

The issue of damages is a complex one in these cases. So far the courts that have recognized "wrongful life" have allowed either the parents or the child to recover "special damages" for extraordinary medical or educational expenses, but have rejected the award of general damages for the child's "diminished existence."[10]

1. Whether the appellate court will remain in this rank is uncertain. The North Carolina Supreme Court granted the petition for discretionary review, and the hearing is scheduled for later this spring.

2. "Wrongful birth" and "wrongful life" actions are brought because of the birth of a defective child. These suits are to be distinguished from "wrongful conception" or "wrongful pregnancy" in which a normal, healthy child is born due to alleged negligence in performing a vasectomy, a tubal ligation, an abortion, or in negligently filling a birth control prescription.

   Note, *"Robak v. United States: A Precedent-Setting Damage Formula For Wrongful Birth,"* 58 Chicago-Kent L. Rev. 725, n.1 (1982).

3. The "wrongful birth" and "wrongful life" causes of action have been a source of confusion and heated debate in the courts which have considered these issues. See, generally Annot., 83 A.L.R. 3d 15 (1978).

4. Amniocentesis is a procedure for determining the presence of certain fetal defects. This procedure is performed by inserting a needle into the womb, and withdrawing some of the anmiotic fluid. After culturing cells and preparing slides, microscopic analysis and karyotyping (chromosomal analysis) are done.

5. Down's Syndrome, also known as Trisomy 21, is a genetic disorder caused by an additional 21st chromosome. Persons who are born with this syndrome suffer from mental retardation as well as a variable number of physical abnormalities.
   (Stedman's Medical Dictionary [23d ed.])

II. "Wrongful Life": Revolutionary concept or Familiar Tort Territory?

Should "wrongful life" be recognized? Aside from oft-cited and apparent difficulties in measuring damages there are numerous policy considerations, far-reaching implications for legal precedent and medical practice, and ethical sub-issues in the hidden agenda of the "wrongful life" issue. This portion of the article will discuss some of the arguments for and against judicial recognition of this cause of action.

A. Legal Arguments

1. Arguments of Opponents to the Cause of Action

"Wrongful life" is viewed by some as a revolutionary concept, very novel and frightening in its uncertainties. Opponents of "wrongful life" see the action as a logical impossibility. The normal function of damages is to compensate the injured party, to place him as nearly as possible in the circumstances he would have occupied but for the alleged negligence. When an infant plaintiff claims he should not have been born at all he has destroyed the ground upon which he needs to rely to prove the damages he alleges. In other words, the plaintiff wants the court to compare his impaired life with the non-existent state in which he would otherwise have found himself. However, it was the *Gleitman* court's contention that the assertion itself makes recovery impossible.

Other courts have taken the stance that the law is ill-equipped to make such a comparison in any event, and that these matters are best left to the realms of theology and philosophy.

Perhaps the most well-established argument offered by opponents is that such a cause of action amounts to a denial of the value of human life. These persons characterize the child's action as a statement that his very life is a tort caused by a health care provider's negligence in failing to inform his parents of possible defects so that they could abort the fetus in a timely fashion. Since abortion is an option chosen by some parents following amniocentesis, the issues of "wrongful life" and "right to life" become, perhaps unavoidably, intertwined.

A corollary to the above proposition is that any life, with any impairment, is preferable to non-existence; therefore, the child has not suffered any legally cognizable injury. This rationale has been followed by nearly every jurisdiction which has refused to recognize the cause of action. For example, the court in *Berman v. Allen, supra,* found that the Declaration of Independence and the Constitution as well as our present system of justice reflect the value that life is to be prized and protected. In this view the child has not only *not* sustained an injury but has been granted a physical existence which allows him, at the very least, a very precious opportunity. The *Berman* court enumerated some of the benefits accruing to Sharon Berman by reason of her existence: ". . . Notwithstanding her affliction with Down's Syndrome, Sharon, by virtue of her birth, will be able to love and be loved and to experience happiness and pleasure — emotions which are truly the essence of life and which are far more valuable than the suffering she may endure."[11]

The cause of action has also been viewed as tantamount to recognizing a fundamental right to a healthy existence, free of defect. The *Berman* court felt that recognition of a right to a "perfect" existence would imply that the lives of handicapped persons were less than valuable. Rejecting this, the court insisted: "It is life itself that is jealously safeguarded, not life in a perfect state."[12]

2. Arguments of Proponents of "Wrongful Life"

"Wrongful life" is viewed by the legal pragmatist as an action in medical malpractice. The label "wrongful life" may inject unnecessary emotionalism into what is otherwise an acceptable tort action. Labelling serves no definitive purpose and clouds what proponents see as the true issue. They view the central issue as the failure to disclose information crucial to the parents' decision about childbirth. Such deprivation of choice results in harm to parents and the child.[13]

That parents have a right to make decisions concerning whether to abort a fetus seems to follow inevitably from the *Roe v. Wade* holding. In fact, the dissent in *Berman* found that the denial of such opportunity inflicted a moral wrong upon the parents. While certain parents, being apprised of some fetal defect, might nevertheless choose to bear the child, other parents are cognizant of their incapacity to assume that responsibility. Forcing these persons to bear a handicapped child, whose impairments they may be unwilling to accept or unprepared to handle, renders them woefully inadequate parents. The child, of course, is the ultimate victim.

Policy arguments aside, the recognition of "wrongful life" seems consistent with the aims of tort law. First, this action would promote societal interest in responsible genetic counseling and testing and would act as a deterrent to medical malpractice. To hold otherwise might frustrate these goals by providing immunity to those health care providers who fail to act with reasonable care. Another rationale often advanced for the "wrongful life" action is that allowing the child to sue on his own behalf ensures that any damage award will accrue to him. This satisfies a second goal of tort law, that a wrong be redressed. The "wrongful life" decisions thus far have insisted that the child's action is preferable to the parents' "wrongful birth" action because the child's right to recover should not depend on whether the parents are present at the time of suit or whether they are still legally responsible for the child's care.

Allowing a child to sue circumvents another problem highlighted by *Becker v. Schwartz,* 46 N.Y. 2d 401, 386 N.E. 2d 807 (1978): the possibility of a "windfall" to the parents to the detriment of the child. While the *Becker* case was being litigated, the Beckers put their handicapped child, the

6. *Azzolino v. Dingfelder, supra,* at Rp 2-4.
7. Tay-Sachs is a "fatal progressive degenerative disease of the nervous system which primarily affects the Eastern European Jewish population and their progeny." *Howard v. Lecher,* 397 N.Y.S. 2d 363, 366, 366 N.E. 2d 64, 67 (1977).
8. Fetal hydantoin syndrome is characterized by "mild to moderate growth deficiencies, mild to moderate developmental retardation, and other physical and developmental defects." *Harbeson v. Parke-Davis, Inc.,* 656 P.2d at 486. (1983).
9. **See e.g.,** *Harbeson v. Parke-Davis, supra,* 656 P.2d at 493, 497.
10. A full treatment of the damages issue is beyond the scope of this article. **See,** generally: Note, "California Supreme Court Survey: *Turpin v. Sortini,*" 10 Pepperdine L. Rev. 296-305 (1982).
    Note, "*Curlender v. Bio-Science Laboratories:* A Rational Step Toward Judicial Recognition of Wrongful Life," 34 Okla. L. Rev. 614-25 (1981).
11. *Berman v. Allen, supra,* 404 A.2d, at 12.
12. **Id.** at 13.
13. Capron, "Tort Liability in Genetic Counseling," 79 Columbia L. Rev. 618, 652 (1979).

infant plaintiff, up for adoption. Although this occurred before any recovery was determined so that the award was limited to the Beckers' previous expenses, the incident nonetheless spawned a public outcry. The potential for natural parents being able to obtain a multi-million dollar award while the adoptive parents and the child go without claim to the monies has made the "wrongful life" action all the more attractive to courts that have considered the issue.

Once injury has been established, traditional tort principles point to the tortfeasor, here the physician or laboratory, as the appropriate risk-bearer. This approach is consistent with other medical malpractice actions. Actually, recognizing "wrongful life" can be seen as "rectifying a legal anomaly that has up to now prevented a person who was severely injured due to the negligence of another, from recovering damages from the negligent party."[14] If the tortfeasor himself does not pay the costs, someone must, and the party to whom the burden falls will be either the innocent parties of parent or taxpayer. This result would certainly prove a radical departure from established tort law.

There are constitutional implications of the "wrongful life" action, though proponents of the child's right to sue scoff at the notion that the action is founded upon the premise that each individual has a fundamental right to a healthy birth. The point, say "wrongful life" advocates, is that the child exists and has suffered injury through the negligence of another. "Fundamental right" language in this context originated in *Park v. Chessin,* 400 N.Y.S. 2d 119, 386 N.E. 2d 897 (1978), but the appellate court which overruled the case specified that such a right has never been recognized.

A concept which follows the fundamental right to a healthy birth is that the child would have preferred non-existence to an impaired existence. This notion has presented a stumbling block to recognition of "wrongful life" in a number of cases, as the courts deemed such a comparison repugnant on policy grounds. However, in *Curlender v. Bio-Science Laboratories, supra,* the court rejected the idea that "wrongful life" is based upon a preference for non-existence. "It is neither necessary nor just to retreat into meditation on the mysteries of life. We need not be concerned with the fact that had defendants not been negligent, the plaintiff might not have come into existence at all."[15] By viewing the plaintiff from his present position rather than a hypothetical one, the court fit the action easily into the tort framework without becoming mired down in metaphysical questions.

B. Standard of Care

The "wrongful life" action has both resulted from and impacted upon a standard of care. Standard of care defines the scope of duty owed to the parents and the fetus.

1. Arguments by Medical Writers and Practitioners Who Favor the Action

Those who favor recognition of "wrongful life" see a higher standard of care as a natural and appropriate extension of a technology replete with new techniques for antenatal diagnosis. The science of human genetics is one of the most rapidly developing areas of medicine. Physicians are more aware than ever of the effects of disease, drugs, and diet upon the fetus. Laboratory testing has become much more skilled and the results more certain. It is not surprising that the public fully expects themselves and the next generation to be the beneficiaries of this windfall of wisdom. While this knowledge cannot entitle one to a defect-free existence, it is generally agreed that the available technology and understanding entitles one to its access. *Harbeson v. Parke-Davis, supra,* underscored the right of parents to decide not to bear defective children and found that physicians have a correlative duty to inform parents completely so that they may make informed decisions about conception or birth. Further, that court recognized that the standard of care for medical laboratories mandates that any diagnostic procedures be performed with due care. Medical commentators generally accept such a standard as well: "The law requires physicians to give accurate information to patients and forbids the withholding of vital information from them. These principles are consistent with the doctrine of "informed consent" and the reasonable expectations of a pregnant woman under a doctor's care."[16]

Although some courts have rejected "informed consent" as a rationale for the "wrongful life" action, other courts and commentators find the "informed consent" doctrine consistent in theory. "Informed consent" had it origin as a battery action, so that any intrusion upon the body to which the patient had not consented gave rise to a cause of action. In recent years "informed consent" cases have been recognized as arising from the negligent disclosure of information by a physician to his patient. This analysis finds that any consent has not been "informed" where the patient has received incomplete information regarding risks and alternative treatments. The *Canterbury v. Spence* case, 464 F 2d 772 (D.C. Cir. (1972) *cert. denied,* 409 U.S. 1064 (1972), is an important case decided under the negligence analysis. That court held that non-disclosure of material information violated the physician's duty of due care. In the context of "wrongful life," "informed consent" seems to fit comfortably for two reasons. First, genetic counseling by the physician is nearly always followed by subsequent visits and examinations. If the counseling is inadequate, i.e., the patient is not fully informed as to the risks of bearing a handicapped child, then the medical conduct following is based upon invalid consent.[17] Secondly, "informed consent" is particularly applicable to a case such as *Azzolino v. Dingfelder, supra,*. In that case Mrs. Azzolino was not given full information concerning the advisability of having the amniocentesis or further genetic

14. Annas, "Righting the Wrong of 'Wrongful Life,' " *Hastings Center Report,* February 1981, at 8.

15. *Curlender v. Bio-Science Laboratories, supra,* at 488.

16. Annas, "Medical Paternity and 'Wrongful Life,'" *Hastings Center Report,* June 9, 1979, 15, 17.

17. "Tort Liability in Genetic Counseling," *supra* note 13, at 629, f.n. 36.

18. *Truman v. Thomas, supra,* 611 P.2d at 905-906.

19. Table I. Risks of Down syndrome correlated with maternal age.*

Mother's age	Risk
20	1/1923
21	1/1695
22	1/1538
23	1/1408
24	1/1299
25	1/1205
26	1/1124
27	1/1053
28	1/990
29	1/935
30	1/885
31	1/826
32	1/725
33	1/592
34	1/465
35	1/365
36	1/287
37	1/225
38	1/777
39	1/139

screening performed. This is the *Canterbury* case in negative. Mrs. Azzolino did not give informed consent to the procedure's *not* being performed. *Truman v. Thomas,* 165 Cal. Rptr. 308, 611 P.2d 902 (1980), a case decided by the California Supreme Court, found that a physician breached his duty when he failed to disclose to a patient the risks of *not* having a regular Pap smear test performed. The patient later died of cervical cancer, which is easily detectable and highly amenable to treatment in its early stages. The court determined that the woman's decision not to have the procedure done was an uninformed one. According to that court, the physician should have apprised the patient of material information (that information which a reasonable person in the patient's position would regard as significant in reaching a decision to accept or forego the proeedure or diagnostic test).[18] This material information should include not only the risks and benefits of a treatment/diagnostic procedure, but the risks of foregoing the procedure as well. Such disclosure comports with the risk-benefit analysis mandated by *Canterbury.*

Truman is useful as well in its reiteration of principles enunciated in *Helling v. Carey* 83 Wash. 2d 514, 519 P.2d 981 (1974). The *Helling* court held as a matter of law that "reasonable prudence" required a standard glaucoma test be administered to all patients, though the standard in the ophthalmology profession was that such tests be administered only to persons over age 40 (the age at which the risk for glaucoma sharply increases). In that case the court found that, where the risk of injury was so great, i.e., blindness, this factor outweighed the paucity of occurrences of glaucoma in persons under age 40. In *Truman,* Mrs. Truman's realized risk was death from cervical cancer. The *Azzolino* case is analagous in that, while the occurrence of a Down's Syndrome birth is certainly fewer for women as a group at age 36 than for women ages 37 and older,[19] the possible injury is so great that, arguably, an arbitrary cut-off age for testing is virtually meaningless. Under *Helling,* the undeniable harm incurred by those families who birth and nurture a severely deformed child as a result of their being denied information and choice renders meritless the defendant's argument that his practice conformed to a policy or acceptable standard.

There are certain medical practices generally recognized as duties under a standard of care which seeks informed consent:

(1) Using the best methods available for prenatal screening
(2) Conducting appropriate genetic investigation (family history, previous pregnancy history, maternal age)
(3) Disclosing completely the risk of genetic or other abnormality to the parents so that they may make well-reasoned decisions about preventing or terminating the pregnancy
(4) Advising identified "at-risk" couples about screening/testing procedures, and referring them to facilities or specialists for these procedures or for further counseling.[20]

A new standard of care may necessitate drastic changes in the physician-patient relationship as it exists today. The duty of obstetricians and gynecologists has in the years prior to recognition of "wrongful life" been tailored to a single patient-unit of mother and fetus. "Wrongful life" asserts a duty to the fetus as a separate being. Thus, the physician who has knowledge of some maternal behavior which is compromising fetal development is faced with a conflict in duty. Current medical literature shows a definite trend of medical practitioners favoring the termination of a relationship with a mother who continues detrimental behavior to the fetus despite the physician's warnings. "Although the right of privacy (recognized in *Roe*) at this time legally protects the mother from having to follow any mandatory health regimen, such a legal shield does not make it obligatory on the physician to continue his relationship with her . . . One way out for the physician would be a statement of his position that he cannot treat the two related parties at the same time unless their interests are congruent with each other in health and general well-being."[21]

2. Arguments Opposing a New Standard of Care

The medical community is not, however, unanimous in lauding the merits of "wrongful life" as it effects a new standard of care. Some view "wrongful life" as a recognition of the public's expectation of "medical infallibility" which has become greater with each technological advance. Others see "wrongful life" as another indicia of a hysteria which concerns itself with frantically seeking a proximate cause for each human frailty.

The doctrine of "informed consent," while familiar to physicians since the 1970's, is still an issue of concern as it affects the standard of care. "Informed consent" to some medical practitioners is a misnomer, a product of trying to squeeze medical practice into an ill-fitting legal pigeonhole. At what point does a patient have sufficient knowledge to give effective consent? There are guidelines for "informed consent" forms: to insure that the form contains the substance of the disclosure, that the disclosure is geared to patient need, and that the substance is plain to the patient.[22] Yet, as one medical practitioner concedes, "A good attorney could tear any consent form we could develop to shreds."

Some health care providers feel they are being made to doubt their judgment, the exercise of which is the essence of the profession. For example, certain diagnostic testing formerly regarded as unnecessary may be ordered routinely as physicians attempt to meet the undefined higher standard of care and to avoid liability. Undoubtedly, medical costs will be driven even higher, and the physician will find himself in still another dilemma: to circumvent the possibility of lawsuit with

Mother's age	Risk
40	1/109
41	1/85
42	1/67
43	1/53
44	1/41
45	1/32
46	1/25
47	1/20
48	1/16
49	1/12

Data from Hook and Chambers. Printed in *Contemporary OB/GYN.* III, March 1981.

20. Marsh, "Prenatal Screening and 'Wrongful Life': Medicine's New 'Catch 22'? *American Journal of Obstetrics and Gynecology.* August, 1982, 746, 747.
Also, "Tort Liability in Genetic Counseling," *supra,* note 13, at 627.

21. **Id.,** "Prenatal Screening and 'Wrongful Life'."

22. Milunsky, "The 'New Genetics': Emerging Medicolegal Issues in the Prenatal Diagnosis of Hereditary Disorders," *American Journal of Law and Medicine,* 71, 80-81 (1975).

endless, costly testing or to risk liability by practicing what he sees as reasonable medicine with an eye toward cost containment. Even the unnecessary, costly procedures are certainly not infallible and some are risky to the fetus.[23]

Finally, medical practitioners fear that the "wrongful life" standard of care mandates changes in the nature of the physician-patient relationship that may erode its traditional confidential nature. The physician might have a duty to contact siblings or other blood relatives of patients with genetic abnormalities, as these persons would be at risk for bearing handicapped children. Conflicts arise for the physician where the parent(s) have attempted to hide genetic abnormality by placing the affected child in an institution. Or, the parents may have deliberately failed to name a genetic problem as the cause where a child has died or where the fetus was aborted.

C. Precedential Impact

The prospect of increased liability from altered duty faces not only the medical practitioner. Parents may become legally liable to their children for childbirth choices they make. This spectre was raised in *Curlender v. Bio-Science Laboratories, supra,* as the court stated in dictum that where parents make "a conscious choice to proceed with a pregnancy, with free knowledge that a seriously impaired infant would be born . . .," those parents would "be answerable for the pain, suffering and misery which they have wrought upon their offspring."[24] In response to that language, the California legislature enacted a statute which provided that the parental decision in that context could serve neither as a defense in an action against a third party or as a consideration in a damage award.[25]

The issue of child suing parent will almost certainly be raised again. In fact, some writers feel that parental liability is a logical and fair extension of the "wrongful life" action. For example, parents may be liable for negligently conceiving their children. This liability arises if courts find that parents owe their children a duty to undergo genetic screening and counseling, to disclose genetic risks to family members, to use contraceptives, to be sterilized, or to circumvent the genetic problem by some artificial means of fertilization. Here, the parent's liberty interest is in direct conflict with the child's right to maintain an action in tort.

The fetus' right not to be born assumes the fetus' "right to die," also characterized as "negative euthanasia." The corresponding parental duty is to act to fulfill that right. One writer analogizes the abortion of a defective fetus to the removal of the maternal life support system, much as life support systems can be removed from aged persons with terminal illnesses.[26]

Another argument advanced by proponents of maternal liability involves cases of fetal abuse mentioned earlier in this article. In those cases where the mother is likely to harm the fetus by her own behavior, the mother may be criminally liable for any defect proximately caused by her seriously negligent behavior. The widespread social concern about child abuse and neglect and the rising awareness of its pervasiveness would cut in favor of the state's showing of the compelling interest necessary to outweigh the mother's right. Other intervention may be needed to inhibit the fetal abuse before irreversible damage is wrought. The alcoholic mother may be quarantined or the narcotic addict enjoined from further substance abuse.

Many commentators disagree that the extension of parental duty into the above-named areas would be consistent with currently held values. They argue that such liability has at its base the concept of a fundamental right to be born physically and mentally sound; this right has been rejected thus far by the courts.

The notion of a parental *duty* not to conceive or to abort a defective fetus is repugnant to those who strongly uphold either the fetus' right to life or the parents' right to choose. One writer feels the only equitable solution is to allow parents to continue making "good faith" judgments about childbearing. The inevitable suffering of some children is, he posits, "a less onerous result than the massive curtailment of liberty implicit in the 'right to normalcy' notion."[27]

It is argued that enforcement of extended parental duties would produce "unprecedented eugenic totalitarianism."[28] No longer would the issue be the duty of health care providers to inform parents so that they might make intelligent decisions. According to one writer, the issue would then be whether the parents have a right to decide at all or whether the state, via the physician or laboratory, will make the decision for them.

Conclusion

The fate of the "wrongful life" action in North Carolina is still uncertain. This issue, whether seen as the right to informed choice or the right to normalcy, will certainly present itself in other jurisdictions. One thing is clear. Any thoughtful treatment of the issue requires an interdisciplinary analysis, an examination of the issue as it impacts upon legal precedent, medical practice, and social policy. "It borders on the absurdly obvious to observe that resolution of this question transcends the mechanical application of legal principles. Any such resolution, whatever it may be, must invariably be colored by notions of public policy, the validity of which remains, as always, a matter upon which reasonable men may disagree."[29]

Meredith J. McGill is a second-year student at Wake Forest School of Law.

The author would like to thank the following persons for their contributions to this article:

Dr. Barbara Burton, Assoc. Professor, Dept. of Pediatrics, Bowman-Gray School of Medicine.

Mr. Tim Hubbard, Attorney-at-Law. (Attorney for plaintiffs, *Azzolino v. Dingfelder*).

Dr. W. Joseph May — Professor, Dept. of Obstetrics and Gynecology, Bowman-Gray School of Medicine.

Mr. William F. O'Connell, Special Deputy Attorney General — Division of Human Resources, North Carolina Justice Department.

Mr. Steve Sartorio — Attorney-at-Law (Attorney for defendants, *Azzolino v. Dingfelder*).

23. Powledge, "Prenatal Diagnosis: New Techniques, New Questions," *Hastings Center Report,* June 9, 1979, 16-17.

24. *Curlender v. Bio-Science Laboratories, supra,* 165 Cal. Rptr. at 488.

25. *Turpin v. Sortini, supra,* 182 Cal Rptr. at 342. quoting California Civil Code, Section 43.6, chapter 331 (1981).

26. Shaw, Margery, "Conditional Prospective Rights of the Fetus," 5 *The Journal of Legal Medicine,* 63, 97. (1984).

27. Annas, "Righting the Wrong of 'Wrongful Life' ", *supra,* note 14, at 9. Quoting Prof. Alexander Morgan Capron, "The Wrong of 'Wrongful Life' ", *Genetics and the Law II,* 81, 89 (1980).

See also, Jones and Perry, "Can Claims For 'Wrongful Life' Be Justified?", 9 *Journal of Medical Ethics 162-164 (1983).*

28. **Id.** "Righting the Wrong of 'Wrongful Life'."

29. *Becker v. Schwartz, supra,* 386 N.E. 2d at 810.

Class Notes

1923

John C. Joyner, Sr. maintains a real estate and estates law practice in Asheville, N.C. He is presently the treasurer of the Buncombe County Baptist Home for the Aging and is a Deacon in the First Baptist Church in Asheville. Recently, *The Asheville Times* recognized Mr. Joyner as Asheville's oldest practicing attorney. The law library at Wake Forest is named the J.C. Joyner Library in his honor.

1931

Wade E. Brown, who has been practicing law in Boone, N.C. for 53 years, headed efforts to construct the Chapel of Faith for the Watauga County Unit of the North Carolina Department of Corrections. Former Governor James B. Hunt, Jr. dedicated the chapel, built with prison labor and community donations on September 14, 1984. Brown received the 1984 Governor's Volunteer award as an Individual Community Volunteer Leader. He and his wife, Gilma, celebrated their 50th wedding anniversary on June 1, 1985.

1933

Edward M. Hairfield, Jr.'s law practice of 22 years in Morganton, N.C. is in the area of corporations, real property and tax litigation. He is a former county court judge and received the State Bar's 50 Year Award in October 1983.

1934

Lynwood Smith is now retired and living in High Point, N.C. From 1945-72, he served as general counsel for Adams-Millis Corporation and Highland Yarn Mills, Inc. in High Point. He was a member of the N.C. State Senate from 1972-75. Currently, he is a member of the N.C. Economic Development Board.

1936

Robert D. Holleman, semi-retired, is engaged in a mortgage banking, wills and administration, and local government law practice with Everett and Hancock in Durham, N.C.

1937

Leonard Hampton van Noppen of Danbury, N.C. has been in the general practice of law for more than 30 years. He served as a chief district court judge from 1970-82.

1942

R. Lewis Alexander has a general civil practice in Elkin, N.C. His son, who practices with him, specializes in criminal law.

Robert Cowan has been practicing law in Williamston, N.C. and is serving as the town's Mayor. He has announced that he will not seek reelection to another term.

Joseph B. Huff and his son, **Stephen E. Huff,** (J.D. 1978) have a general law practice in Marshall, N.C. He served on the North Carolina Bar Association Board of Governors in 1976 and 1979 and was President of the 24th Judicial District Bar for 3 separate terms.

1950

Clyde A. Douglass, II is in partnership with his son, Thomas G. Douglass, in Raleigh, N.C. He is currently serving a 1983-86 term on the Meredith College Board of Associates.

1951

James Williams supervises personal injury litigation for Seaboard System Railroad Company as Assistant Vice President-Claims in Jacksonville, Florida.

1952

Russell E. Twiford, a former prosecuting attorney for Pasquotank County, has a general law practice in Elizabeth City, N.C. He is the state Vice President of the North Carolina Junior Chamber of Commerce and Commodore of the Pasquotank River Yacht Club.

1956

Philip P. Godwin is practicing law with his son, Philip P. Godwin, Jr. (J.D. 1978) under the firm of Godwin and Godwin in Gatesville, N.C. He served in the N.C. General Assembly from 1961-72 and was Speaker of the House of Representatives from 1970-72. From 1973-75, he served in the North Carolina Senate. Currently, he is a member of the Advisory Committee of the State Legislative Leaders Foundation.

1957

Jeff D. Batts practices law in Rocky Mount, N.C. specializing in taxation, corporate and estate planning matters. He has three sons who have attended Wake Forest University School of Law including one who is now in his second year.

Dr. Own Meredith, an advocate against the death penalty, resides in Nashville, Tennessee. In 1983 he was named a Fellow of Lawyers in Mensa and, since 1969, has been a life member of the American Society of International Law.

1959

George E. Clayton, Jr. has a practice in Rocky Mount, N.C. involving personal injury, products liability, and domestic matters.

Koy E. Dawkins has a general business practice in Monroe, N.C. specializing in construction law. He is also involved in various professional and civic organizations.

1960

Carroll Gardner has a general law practice in Mt. Airy, N.C. From 1980-84 he served as Chairman of the 5th Congressional District Democratic Executive Committee.

Franklin N. Jackson is a partner in the Wilmington, N.C. law firm of Roundtree, Ryals, Jackson and Seagle.

J. Charles McDarris retired as a North Carolina District Court Judge on April 1, 1984 after eleven years on the bench. He has been appointed an emergency District Court Judge. Judge McDarris and wife, Ethel, reside in Waynesville, N.C.

1961

Henry A. Mitchell, Jr. is a senior partner in the Raleigh, N.C. law firm of Smith, Anderson, Blount, Dorsett, Mitchell and Jernigan. His practice is centered on corporate, insurance and legislative matters. He currently serves as legal counsel to the N.C. Council of Management and Development, Inc., and is a member of the Board of Directors of Wachovia Bank and Trust Co., N.A. (Raleigh, N.C.) and of the Board of Directors of Lawyers Mutual Liability Insurance Co. of North Carolina.

1963

M. Edward Knox is engaged in the general practice of law in Charlotte, N.C. specializing in corporate and civil litigation.

Fred G. Morrison, Jr. is engaged in the general practice of law in Raleigh, N.C. specializing in parole and prison matters.

1964

Donald C. Perry is a partner in the general practice firm of Perry & Bundy of Monroe, N.C. Donald is active in various civic land professional organizations.

1965

Brooks S. Doyle, Jr. is a corporate counsel with Hughes Aircraft Co. specializing in federal government contract law. He is married and has two children.

1967

Charles Winberry was named as "Outstanding Trial Court Judge" by the North Carolina Academy of Trial Lawyers in 1984. Since 1982, he has been resident Superior Court Judge for the 7th Judicial District, which serves Nash, Edgerombe and Wilson Counties.

1969

David V. Liner is engaged in the general practice of law as a partner with Liner and Bynum of Winston-Salem, N.C.

W. Fred Williams has a general commercial and real estate practice in Nashville, Tennessee. He served as Managing Partner of Dearborn and Ewing from 1980-83.

1971

Ed Parker is engaged in a general trial practice as a partner in the law firm of White and Crumpler, Winston-Salem, N.C.

1972

Thomas P. Mohr has a general civil practice in West Chester, Pa. specializing in real estate, corporate, commercial and domestic matters.

Ronald D. Payne is Vice President-Administration, Corporate Secretary and Director of Engineered Systems and Development Corporation in San Jose, California. He received an LLM in tax from the University of Miami Law School (1974) and an LLM in Government Procurement Law from George Washington University Law School (1976).

Herb Thomas is practicing law as an attorney-C.P.A. in Manteo, N.C.

1973

M. Larry Johnson has recently assumed the position of Vice President, Employee Relations for Hanes Group. Johnson, who joined Hanes Knitwear in 1974, is a native of Raleigh and now resides in Winston-Salem, N.C. with his wife Ann.

Rob Johnson is an Assistant District Attorney for the Second Judicial District, and is living in Swan Quarter, N.C.

John L. Pinnix has been elected Chapter Chair of the North Carolina Chapter of the American Immigration Lawyers Association after having served as Treasurer for the last three years. Mr. Pinnix is a member of the Raleigh law firm of Barringer, Allen, and Pinnix.

Michael C. Reeves is President of the Safeco Title of North Carolina, Inc. in Charlotte, N.C.

James B. Spears, Jr. is specializing in Labor Relations, Employment Discrimination, ASHA, and EPA matters with a Greenville, S.C. firm.

1974

Charles D. Coppage recently moved from Plymouth to Manteo, N.C. and joined the law firm of McCown and McCown.

Charles D. Coppage recently joined the general practice firm of McCown and McCown of Manteo, N.C. He has served as Town Councilman in Plymouth, N.C. and President of the Second District Bar Association.

Carole B. Dotson has just celebrated one year in private practice as a sole practitioner emphasizing corporate, real estate, and litigation after nine years as in-house counsel for Gulf Oil Corporation.

Roger T. Haley, formerly the Municipal Prosecutor for Ewing, N.J., has opened his own practice in Lawrenceville, New Jersey specializing in civil trial work. He is a former member of the Board of Governors for the Trenton Police Athletic League, a Democratic Committeeman for Ewing Township, N.J., and a member of the Trial Attorneys of New Jersey.

David H. Maner is currently the District Manager for Duke Power Company, Chapel Hill District. In 1984, he served as the President of the Eden Chamber of Commerce.

Samuel J. Villegas is house counsel for Fairchild Burns Co., a division of Fairchild Industries, Inc. in Winston-Salem, N.C.

1975

Geoffrey L. Chase is a corporate attorney for Air Products & Chemicals, Inc. of Allentown, Pa.

Thomas W. Cole practices patent, trademark and copyright law in Washington, D.C. He is presently a member of the District of Columbia, Virginia and North Carolina Bars.

Daniel S. Johnson, formerly of Haebegger and Johnson, has opened an office for the general practice of law in Winston-Salem, N.C.

Robert E. Morey is a supervising attorney for the U.S. Environmental Protection Agency in Washington, D.C. He participated in the Office of Management and Budget Task Force, drafting "A-122 Circular" revisions, precluding the use of federal grant monies for lobbying. He is presently detailed to the Department of Agriculture on a task force to implement the Debt Collection Act of 1982.

Michael G. Walsh is Associate Director of Publications for the American Law Institute in Philadelphia, Pennsylvania. He is serving on the American Bar Association Committee on Continuing Professional Education.

Sharon T. Rayle Walsh has returned to general practice in Philadelphia, Pennsylvania after serving 5½ years as an Editor for the Lawyers Cooperative Publishing Company.

1976

A. Michael Barker is a certified specialist in civil litigation with the Atlantic City, N.J. firm of Mann, Kaplan, Goldberg, Gorny & Daniels.

Douglas W. Napier is a county attorney for Warren County, Virginia and is currently serving as Vice-President of the Warren County Bar Association.

Paul C. Shepard, formerly associated with the law firm of Hayes and Shepard, has opened an office for the practice of law in Winston-Salem, N.C. He has been a member of the City-County Planning Board since 1981.

William Sehon Rose, Jr. specializes in bankruptcy and insolvency law with the Los Angeles, Cal. firm of Buchalter, Nemer, Fields, Chrystie and Younger.

Linda E. Stanley is a partner in the San Francisco law firm, Dinkelspiel and Dinkelspiel. She is serving as Vice Chair of the Committee of Bar Examiners for the State of California.

Michael C. Stovall, formerly of Greensboro, N.C. has moved to Tulsa, Oklahoma and is the President of Genie Oil and Gas Corporation. He is also Vice President and Chief Operating Officer of Duke Drilling Corporation, a contract driller operating 4 rigs in Oklahoma and Texas.

Daniel Taylor, Jr. has been named a partner in the law firm of Petree, Stockton, Robinson, Vaughn, Glaze and Maready. His practice specializes in corporate, commercial and engineering-related litigation. He has served as an adjunct professor of law at Wake Forest.

Brinton Wright, a member of the Greensboro, N.C. firm of Stern, Rendleman and Klepfer, specializes in tax, corporate and estate planning law. He is Treasurer of the Greensboro Drug Action Council and President of the Greensboro Right to Life Council.

1977

Joslin Davis is with the firm of Davis & Marwell, P.A. in Winston-Salem, N.C., and has been appointed by Governor James B. Hunt, Jr. to the State Board of Contract Appeals. The Board will hear appeals from the Secretary of Administration and the State Highway Administrator.

John P. Lewis, Jr. is a partner with the law firm of Johnson and Swanson in Dallas, Texas. He and his wife announced the birth of a daughter, Christine Elisabeth, on September 15, 1984.

James K. (Jim) Phillips is Assistant Secretary and Assistant General Counsel for Fieldcrest Mills, Inc. In addition Jim is active in various civic organizations in Eden, N.C. where he and his family reside.

Joseph E. Stroud, formerly Senior Assistant District Attorney for the Fourth Judicial District of North Carolina, has recently opened an office engaging in the general practice of law in Jacksonville, North Carolina.

1978

Charles Busby and his brother, Max (J.D. 1972) are practicing law in Edenton, N.C. under the firm of Earnhart and Busby.

Peter N. Ehrlich is Mountain Region Counsel for Wood Brothers Homes, Inc. of Denver, Co. His practice involves real estate, land use, and general corporate law.

Thomas K. Leeper is a sole practitioner in Quincy, Illinois.

Karin Bruce Littlejohn, formerly of Eakes and Littlejohn, has opened a new firm in Winston-Salem, North Carolina, engaging in the practice areas of Taxation, Business Law and Estate Planning as they relate to the agriculture industry. Littlejohn is a member of the Continuing Legal Education Committee of the North Carolina Bar Association and Chairman of the Subcommittee on Commodities, Subcommittee on Fishing, Committee of Taxation, and Section of the American Bar Association.

J. Randolph Ward has a general practice emphasizing civil litigation, criminal trials, and commercial and contract law in Durham, N.C. He is President of the Morehead Hills Neighborhood Association and is a member of the Fourth Circuit Judicial Conference for 1984.

1979

J. H. Corpening, II has a general law practice in Wilmington, N.C.

Bonnie Kay Johns recently joined the partnership of Ivey and Ivey of Greensboro, N.C. where she practices commercial, bankruptcy, and domestic law.

Thomas C. McGray has joined the Dallas, Texas office of the Los Angeles based law firm, Gibson, Dunn and Crutcher and practices civil litigation.

David Minor is stationed at Little Rock Air Force Base in Arkansas in the Air Force Judge Advocate Program as Area Defense Counsel. He has been assigned to Iceland, effective 1985.

Howard William Paschal, formerly with Greenville County Public Defender's Office has opened a general practice in Greenville, S.C.

David P. Shouvlin has joined the firm of Isaacson & Jacobson of Greensboro, N.C. as an associate.

Robert A. Singer has become a partner in the Greensboro, N.C. firm of Brooks, Pierce, McLendon, Humphrey and Leonard. He specializes in the law of securities and financial institutions.

1980

Carson Carmichael, III has a general civil practice with an emphasis in administrative and regulatory matters in Raleigh, N.C.

Steve N. Cheolas is an associate with the firm of Kitch, Suhrheinrich, Saurbier and Drutchas, P.C. in Detroit, Michigan. He specializes in the defense of medical malpractice and products liability lawsuits. He married Candice L. Rossi on February 18, 1984.

Dale W. Magner is in practice in Portland, Oregon concentrating in designing and administering pension, profit-sharing, and deferred compensation plans.

Thomas J. Pitman is a solo general practitioner in Jacksonville, N.C. and is the attorney for the Town of Swansboro, N.C. Thomas is also a Judge Advocate with the U.S. Marine Corp Reserve.

Rebecca L. Thompson is a trial attorney with the office for Civil Rights of the United States Department of Education.

1981

Randall L. Frank, a partner in the Bay City, Michigan firm of Pominville and Frank, practices commercial litigation and bankruptcy law.

William D. Hawkins, III specializes in tax law as an associate with the firm of Dickstein, Shapiro and Morin in Washington, D.C. He received his LLM in Taxation from Georgetown University in 1983.

Richard O. Kopf is with the Dallas, Texas firm of Winstead, McGuire, Secrest and Minick representing commercial real estate lenders, developers, and syndicators.

Lori Bruce Millburg is with the Harris County District Attorney's Office in Houston, Texas. She is married to another WFU Law graduate, John C. Millberg.

William D. Moseley, Jr. recently joined the Greensboro, N.C. firm of Douglas, Ravenel, Hardy, Crihfield and Lung. He concentrates on commercial law including bankruptcy.

Steele B. (Al) Windle, III is specializing in Construction Law and litigation with the Charlotte, N.C. firm of Miller, Johnson, Taylor and Allison.

1982

Charles E. Dobbin was recently named Executive Vice President of Caldwell Savings and Loan, Inc. of Lenoir, N.C.

C. Scott Hester has joined the Orlando, Florida firm of Lowndes, Drosdick, Doster and Kantor, P.A. and will specialize in commercial law, real estate, and litigation. Hester formerly served as Law Clerk to Judge Eugene A. Gordon, United States District Court of the Middle District of North Carolina and United States Magistrate Charles R. McCotter, Jr. of the Eastern District of North Carolina.

Margaret A. Hurst is Assistant Attorney for Nassau County, N.Y.

Warren D. Kozak is a partner in the general practice firm of Levin, Hawks and Kozak of Portsmouth, Va. He specializes in personal injury and criminal defense.

Rudy Langdon Ogburn is a trust officer with First Citizens Bank in Greensboro, N.C. and manager of the Greensboro Regional Trust Office.

Thomas J. Payne is serving as a legislative aide to Congressman Walter Jones in Washington, D.C.

Jill R. Wilson is an associate with the Greensboro, N.C. law firm of Brooks, McLendon, Humphrey and Leonard.

Lt. Warren T. Wolfe is a JAGC officer with the U.S. Marines in Laurel Bay, S.C.

1983

Michele C. Bartoli has recently joined the law office of Daron M. Levine and is practicing in Washington, D.C.

Michael J. Dodson is engaged in the general practice of law with the Connecticut firm of Francis & Francis, P.C. after serving as Superior Court Clerk for Manchester County.

William G. Hamby, Jr. is a sole practitioner in Concord, N.C. and is also serving a term as one of the youngest county commissioners in North Carolina.

David P. Hersh is Chief Staff Attorney with the National Civil Liberties Legal Foundation, a non-profit organization litigating First Amendment issues.

G. Edward Hinshaw has a tax and corporate law practice in Winston-Salem, N.C. He is a member of the North Carolina Bar Association and the American Institute of Certified Public Accountants.

Cheryl E. Light is with Campbell, Hooper and Shults of Newport, Tennessee and has married Michael J. Searcy.

Gregg Posciotta is with a plaintiff's personal injury firm in Newark, N.J. He is the father of a third child, Joshua Steven Pesciotta.

David Lee Terry, a graduate of the Judge Advocate Generals' School, is a government prosecutor for the Army in New York.

Garry Whitaker practices in the areas of civil litigation, domestic relations, commercial law and incorporations in Mocksville, N.C. He is currently the YLD liaison for IOLTA.

Susan B. Williams practices in the area of medical malpractice defense in Hempstead, New York.

Drew Williamson is a partner in the general practice firm of Williamson, Dean, Brown and Williamson in Laurinburg, N.C.

1984

Dean T. Buckius is practicing admiralty and general business law with Vandeventer, Black, Meredith and Martin in Norfolk, Virginia.

John J. Carpenter is an associate with the Winston-Salem, N.C. law firm of Womble Carlyle Sandridge and Rice. He received his license as a Certified Public Accountant in 1984.

David Duke is an associate with the law firm of Young, Moore, Henderson and Alvis, Raleigh, N.C.

Todd H. Fennell is an Assistant Public Defender in Charlotte, N.C.

Walter Holten, Jr. has joined the Forsyth County District Attorney's Office in Winston-Salem, N.C.

David S. Hoskins is an associate with the Corbin, Kentucky firm of Leick, Hammons and Burton. His practice involves real estate and banking matters. David also served as Assistant County Attorney for Whitley County during 1984.

Steven W. Lambert is a Special Agent with the Federal Bureau of Investigation in San Diego, California.

David A. Leland is with the Indianapolis Life Advanced ıderwriting Department in Indianapolis, IN. His work is .n the area of corporate insurance benefits.

Sam Morley is associated with the Pensacola law firm of Harrell, Whiltshire, Stone and Swearinger, Pensacola, Florida.

Mark C. Orndorff is an Assistant Commonwealth's Attorney for Roanoke, Virginia.

Frank J. Pergolizzi is teaching Basic Legal Techniques at Catholic University, Washington, D.C. and is also doing administrative work with the firm of Tighe, Curhan & Piliero.

Nancy Connolly Pergolizzi is a tax specialist with Peat, Marwick, Mitchell & Co. of Washington, D.C. Nancy is married to Frank J. Pergolizzi, another member of the class of 1984.

Jim Phillips is an associate with the Greensboro, N.C. law firm of Brooks, McLendon, Humphrey and Leonard.

John A. Rudolph, Jr. is an associate with Holland and Knight in Tallahassee, Florida.

John Schaefer is a clerk for U.S. Federal District Court Judge W. Earl Britt in Raleigh, N.C.

Terry Morris Taylor is involved in the general practice of law in Hickory, N.C. and specializes in Municipal Law and Taxation.

Scott Williams passed the July, 1984 Connecticut bar exam and began specializing in worker's compensation law with the firm of Maher and Maher in Bridgeport, Connecticut.

Deaths

Erwin T. Williams, a 1923 law school graduate, died on November 1, 1984 in Lumberton, N.C. For many years Williams was President of Robeson Savings and Loan Association. He had been a Director Emeritus in recent years of Southern National Bank, formerly the National Bank of Lumberton.

Although Williams never formally practiced, he was a long time member of the Lumberton Bar Association. He served on the local school board, the hospital board and was a member of St. Albans Masonic Lodge and the Lumberton Rotary Club.

He is survived by his wife, the former Lula Norment; four children, Erwin T. Williams, Jr. of Roanoke Rapids, Lula Norment Williams of Fredericksburg, Va., Q. T. Williams of Lumberton, Emily Bass of Statesboro, Georgia; 6 grandchildren; and 2 sisters, Misses Mildred and Annie Grace Williams of Lumberton.

Paul S. Gay, a 1981 law school graduate died on November 26, 1984 in Benea, Ohio. Prior to his death, Mr. Gay had established a general law practice in Middleburg Heights, Ohio. He was active in community activities, as secretary of the Benea Jaycees, a member of Toastmasters International and of the Southwest Community Chorus. Mr. Gay also sang in the choir of the United Methodist Church of Benea.

He is survived by his father Albert, the assistant director of the Conservatory of Music at Baldwin-Wallace College; his mother, Mary; sisters, Jeanne Heilakka of Philadelphia and Carol; brothers, Stuart of Washington, D.C., Bruce and James.

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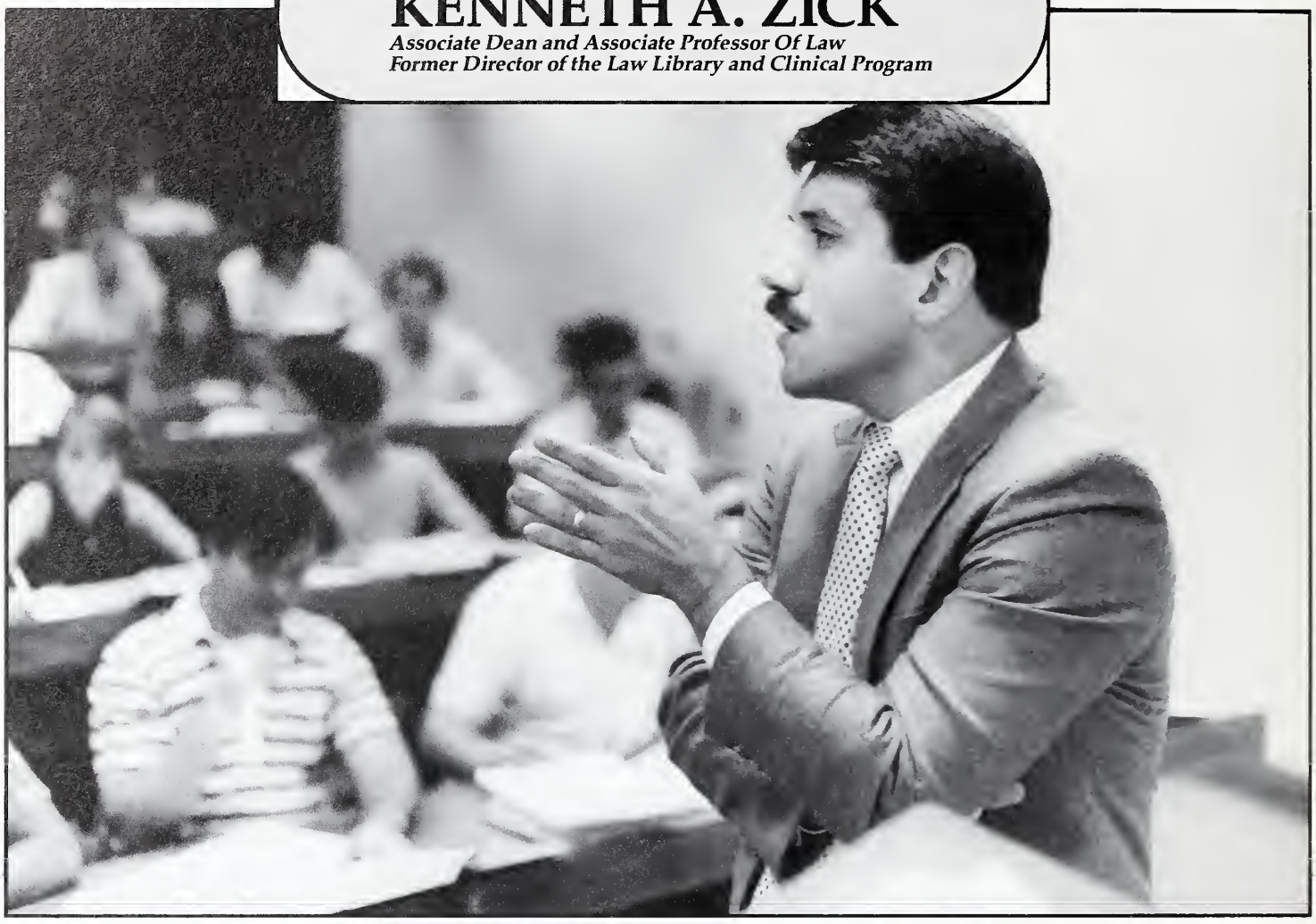

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